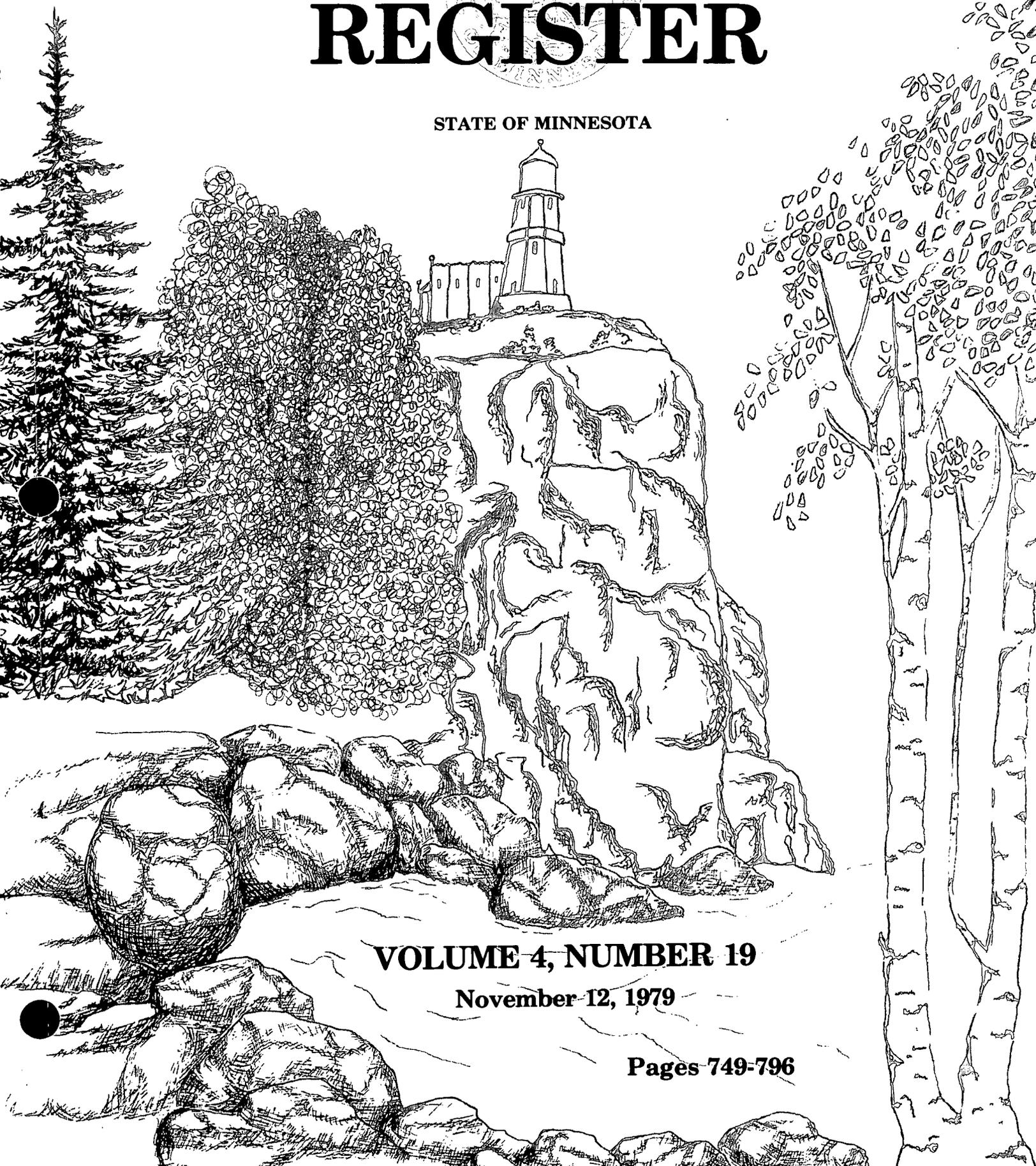


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# STATE REGISTER

STATE OF MINNESOTA



**VOLUME 4, NUMBER 19**

**November 12, 1979**

**Pages 749-796**



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**Volume 4 Printing Schedule for Agencies**

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices.	Issue Date
SCHEDULE FOR VOLUME 4			
20	Monday Nov 5	Tuesday Nov 13	Monday Nov 19
21	Tuesday Nov 13	Monday Nov 19	Monday Nov 26
22	Monday Nov 19	Monday Nov 26	Monday Dec 3
23	Monday Nov 26	Monday Dec 3	Monday Dec 10

\*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

\*\*Notices of Public Hearings on proposed rules are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102.

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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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# MCAR AMENDMENTS AND ADDITIONS

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The *State Register* publishes partial and cumulative listings of all proposed and adopted rules on the following schedule: issues 1-13, inclusive; issues 14-25, inclusive; issue 26, cumulative for 1-26; issues 27-38, inclusive; issue 39, cumulative for 1-39; issues 40-51, inclusive; and issue 52, cumulative for 1-52. The listings are arranged in the same order as the table of contents of the MCAR.

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# RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has

been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

## Department of Education Vocational-Technical Division

### Adopted Temporary Rules Governing Post-Secondary Vocational-Technical and Adult Vocational-Technical Education

The proposed temporary rules (5 MCAR § 1.0104 and 5 MCAR § 1.01051) published at *State Register*, Volume 4, Number 8, pp. 215-217, August 27, 1979 (4 S.R. 215) were adopted on October 10, 1979, approved by the Office of the Attorney General on October 22, 1979, and filed with the Office of the Secretary of State on October 24, 1979. The rules were adopted as proposed, without amendment.

## Ethical Practices Board

### Adopted Rules Related to Economic Interest Disclosure

The Economic Interest rules published and proposed at *State Register*, Volume 3, Number 42, pp. 1929-1933, April 23, 1979 (3 S.R. 1929) were adopted by the Ethical Practices Board on September 28, 1979; approved by the office of the Attorney General on October 19, 1979; and filed with the Secretary of State on October 22, 1979, with the following amendment:

#### Rule as Adopted

##### 9 MCAR § 1.0105 Late filing fees.

A. The Board shall send a delinquency notice by certified mail to a public official or candidate within ten business days after a filing date. If a certified letter is returned by the post office to the Board as refused, then the letter shall be deemed

to have been received by the addressee on the date refused. The late filing fee will then commence accumulating on the eighth day after refusal. A certified letter returned to the Board as undelivered or refused shall be forwarded by first class mail to the public official or candidate, ~~and shall be deemed to have been received 7 days after the first class mailing.~~ The late filing fee for an undelivered notice will commence on the eighth day after the notice is deposited in first class mail.

## Department of Natural Resources

### Adopted Rules Providing Criteria for Regulating Agricultural Dike Construction Along the Red River of the North and Bois de Sioux Rivers

The rules proposed and published at *State Register*, Volume 2, Number 37, pp. 1733-1736, March 20, 1978 (2 S.R. 1733) are adopted, with the changes indicated below.

#### Rules as Adopted

FIRST AMENDMENT TO  
JOINT AND COOPERATIVE AGREEMENT  
FOR THE ESTABLISHMENT OF CRITERIA  
FOR AUTHORIZING DIKES AND OTHER  
FLOOD CONTROL STRUCTURES AND MEASURES  
ON THE RED RIVER OF THE NORTH  
AND THE BOIS DE SIOUX RIVER

1. Article IV of the agreement is hereby amended by the deletion of the existing article and the insertion of the following new article:

IV. JOINT DIKE CRITERIA FOR AGRICULTURAL  
DIKE CONSTRUCTION

**KEY: RULES SECTION** — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. **Strike outs** indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

## RULES

### 6 MCAR § 1.5400 Criteria for regulating agricultural dike construction along the Red River of the North and Bois de Sioux Rivers.

#### A. General purpose.

1. The purpose of these criteria rules is to provide for the orderly and consistent review of permit applications to construct, relocate, rebuild or alter agricultural dikes along the Red River of the North and Bois de Sioux Rivers in order to assure that the granting of such permits would be in the best interests of the people of Minnesota and North Dakota. These ~~criteria would be~~ rules are mutually applicable in both states. The authority to establish these joint criteria is granted to the Commissioner of Natural Resources in Minn. Stat. §§ 105.42, 105.49 and 471.59 and to the North Dakota State Water Commission by Sections 61-02-24 and 61-16-15 of the North Dakota Century Code. The two states recognize that establishment of these criteria rules governing the issuance, review and denial of permits to construct, relocate, rebuild or alter agricultural dikes along the boundary rivers is but the first step in the exercise of joint control over those activities which could contribute to an increased flood potential of these rivers. The two states further recognize the need to exercise this joint control in that water management decisions which appear logical in a local or statewide context may have negative interstate and international impacts.

2. ~~The criteria herein~~ These rules are being established at this time because there is a current need to provide a basis for the review of existing, unauthorized agricultural dikes and permit applications for the construction of additional agricultural dikes along the boundary waters. Local landowners view such dikes as interim solutions to local flood problems.

B. Jurisdiction. These criteria rules governing the review, issuance and denial of permits to construct, relocate, rebuild or alter agricultural dikes along the boundary rivers pertain to all such dikes located within the flood plains of the Red River of the North and the Bois de Sioux Rivers. Floodplain areas of the Red River of the North are defined by Appendix O, Volume 8 of the Souris-Red-Rainy Basins Comprehensive Study as "Red River of the North Main Stem Regional Floodplain Area" and the floodplain of the Bois de Sioux River is defined by the U.S. Geological Survey one percent chance of recurrence area flood quadrangles. These criteria rules apply to dikes constructed on tributaries within the floodplains of these boundary rivers. These rules shall be superseded by local authority adoption of Commissioner approved floodplain ordinances which include agricultural diking provisions as conditional uses.

C. Definitions. For the purposes of these regulations rules certain terms or words used herein shall be interpreted as follows:

1. "Boundary rivers" means the Red River of the North and the Bois de Sioux River as they form a natural boundary between the States of Minnesota and North Dakota.

2. "Agricultural Dike" or "Dike" means an embankment constructed of earth and/or other suitable materials to protect agricultural lands from frequently recurring floods (10-year frequency or more often) which result from overflow of watercourses or from diffused surface waters.

3. "Farmstead" means a farm dwelling, adjacent and or associated farm buildings and those nontillable acres adjacent to the buildings.

4. "Flood frequency" means the average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equalled or exceeded. This frequency is usually expressed as having a probability of occurring, on the average, once within a specified number of years.

5. "Flood waters" means those waters which temporarily inundate normally dry areas adjoining a watercourse. This inundation results from an overflow of the watercourse caused by excessive amounts of rainfall and/or snowmelt which exceed its capacity.

"Ring Dike" means an embankment constructed of each and/or other suitable materials which completely encloses a parcel of land.

6. "Public waters" means all natural and altered natural watercourses with a total drainage area greater than two square miles, except that trout streams officially designated by the Commissioner shall be public regardless of the size of their drainage area.

7. "Watercourse" means a channel in which a flow of water occurs either continuously or intermittently in a definite direction. The term applies to either natural or artificially constructed channels.

"Watercourse, Class I" means, in Minnesota, those natural watercourses serving as major drainage outlets, or major tributaries to those outlets, which are capable of serving a number of beneficial public purposes; smaller natural watercourses serving specific values such as trout streams and scenic waterways.

"Watercourse, Class II" means, in Minnesota, those natural watercourses serving as tributaries of Class I watercourses which are often perennial streams serving more than one beneficial public purpose.

D. Severability. The provisions of these regulations rules shall be severable, and the invalidity of any paragraph, subparagraph, or subdivision thereof shall not make void any other paragraph, subparagraph, subdivision, or any other part.

#### E. Design criteria.

1. Dike setbacks and elevations. Dikes are to be constructed at a location and elevation sufficient distance from the river so as not to cause an increase in the elevation of flood water of the 40 100-year frequency flood of more than one (+) one-half (1/2) foot at any point along the river. However, when the effect of the dike extends within the corporate limits

## RULES

of any city the permitted increase in flood water elevation shall not exceed 0.5 feet within the corporate limits of the city. Calculation of the effects of proposed the dikes shall be based on the dikes being located on both sides of the boundary water an assumed equal degree of encroachment along the opposite side of the river. distance from the center of the channel. If mutual agreement has been reached between applicants on both sides of the river, dikes on one side may utilize up to the entire increase in flood elevation allowable. ~~as to location of the dike, the "equal distance from the center" requirements may be waived providing the limit for increase in flood stage is met.~~ In all instances the applicants maintain the liability for damages resulting from any and all activities.

2. Dike Elevations: Dikes are to be designed and constructed so that they will be overtopped upon the occurrence of a flood that is one foot higher than the 10 year frequency flood at that point.

2. 3. Dike dimensions. Dike top width shall not be less than six (6) feet. Side slopes shall not be steeper than 3:1, except where slope stability analysis and slope erosion control can justify steeper slopes. No organic soil or material shall be allowed in the foundation of the fill of dikes.

3. 4. Vegetative cover and riprap. A protective cover of grasses shall be established on all exposed surfaces of the dike. Riprap shall be used where required for control of erosion.

4. 5. Interior drainage. Dikes shall have provisions for interior drainage. The design shall include plans to handle the discharge from the drainage area based on drainage design requirements for the local area.

F. Hydrologic data for design. The North Dakota State Water Commission and the Minnesota Department of Natural Resources shall provide the discharges and corresponding elevations of the ~~10 year flood~~ various frequency floods (and other available flood data), in relation to known historic floods, for use in dike design.

G. Dikes across natural waterways and legal drains.

1. Dikes shall not be constructed across Class I or Class H public waters or watercourses without permit from the Commissioner of Natural Resources under Minn. Stat. § 105.42. in Minnesota. Dikes shall not be constructed across the following rivers in North Dakota: Wild Rice, Sheyenne, Elm, Goose, Turtle, Forest, Park and Pembina. Dikes constructed across other natural waterways, streams or rivers in Minnesota and North Dakota shall have an opening capable of passing the summer storm having a four percent chance of recurrence and have an emergency spillway to prevent overtopping of the structure when the one percent (1%) summer storm occurs. Dike setbacks along tributary waterways,

within the area defined in Section B of these criteria, to the boundary water shall meet the criteria as stated in Section E.

2. Dikes constructed across legal drains or public ditch systems shall require the approval of the appropriate local authority (watershed district county, city, etc.) drain board, water management district or other local authority.

H. Farmstead diking. Within an existing dike system, ring dikes around individual farmsteads shall not require dike permits if they are not provided with tie-backs to existing roadways or dikes. Ring dikes provided with tie-backs shall be considered part of the overall dike system and will be required to secure diking permits. Outside the dike system there shall be no limitations on tie-backs of dikes around farmsteads. However appropriate authorization must be obtained from the local land use authority consistent with adopted codes or ordinances.

I. Administration.

1. Application for permit. All applications submitted by the owner to construct, to relocate, rebuild or alter dikes shall be made on forms provided by the ~~Commissioner Minnesota DNR or ND State Water Commission~~ and shall be accompanied by two (2) complete sets of plans or specifications. Such plans and specifications shall include the following:

a. A general location map with a minimum scale of 1"=800' showing the following:

(1) Location of the dike with respect to the watercourse;

(2) Location of field inlets to provide for internal drainage; and

(3) Location of legal drains and natural channels tributary to the main river channel.

b. Detailed cross-sections of the dike showing elevations, in relation to mean sea level, and side slopes.

c. Other data as deemed appropriate by the Commissioner to properly evaluate the application for permit.

After review of the information required above and other available data, the state agency to which the application is made shall determine the location and number of required cross-sections of the river channel and overland areas. These locations shall be provided to the applicant who shall then provide the required cross-section data. The applicant shall undertake and agree to pay the expenses incurred in securing these cross-sections.

2. Joint permit applications. Joint permit applications involving two or more landowners or a permit application on behalf of two or more landowners will be accepted by the State agencies. These permit applications, taken together, must meet the above criteria rules.

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# RULES

~~3. Issuance of Permits. Dike permits will be issued only upon concurrent approval by the state and local government in which state the dikes are located. Approval of the permit will in no way relieve the owner from damages which may be caused or created by construction of the dikes.~~

~~4. Joint administration. A copy of each application for a permit shall be forwarded by the state agency receiving the initial application to the other state for comment and recommendation before final approval is granted. If no response is received within 30 days, the Commissioner shall process the permit without such comments or recommendations.~~

~~5. Permit revocation. The applicant shall provide for certification by a registered land surveyor, engineer, or other qualified person or agency that the finished dike elevations are not higher than those approved by the Commissioner state agency to which the application was submitted. The permit will be revoked for failure to provide this certification.~~

The permit may be revoked for failure to construct the dike in accordance with the plans and specifications submitted. Structural alteration of the dike without permission of the appropriate state agency will also result in having the permit revoked.

~~6. Dike Maintenance. All dikes must be adequately maintained to the required shape, height, and protective covering. All maintenance shall be the responsibility of the permit holder. Reconstruction/maintenance. Reconstruction of any authorized dike may be performed after notification to the Commissioner of the repair needed. Permittee shall again certify the repair concurrent with this section. The maintenance of dikes must include periodic removal of woody vegetation (for example, trees and shrubs) which may become established on the embankment. Design of the project shall include provisions of maintenance access.~~

~~6. General administration. All applicants for permits to construct dikes shall be subject to the provisions of 6 MCAR § 1.5026.~~

J. Exception to the criteria. Under special circumstances, exceptions to the dike criteria rules may be authorized on an individual basis but they must have the concurrent approval of the N.D. State Engineer, local water management board in North Dakota, Minnesota Department of Natural Resources and local watershed district in Minnesota. Factors that will be considered include but shall not be limited to dike setback line, location of farmsteads, property lines, existing roads,

stream velocity, environmental effects, and acquisition of flowage rights. increase in flood stage, increase of stage at existing city dike, increase in stream velocity and environmental affects. Request for exceptions must be accompanied by a plan satisfactory to all agencies.

K. Application to existing dikes.

1. These criteria rules shall apply to all unauthorized dikes constructed in the past for the protection of those agricultural lands located within the floodplains of the Red River of the North and the Bois de Sioux, as defined in section B. of these criteria rules. Exceptions are farmstead dikes if they meet the provision of Section H. of these criteria rules.

2. The Commissioner shall have the authority to order removal, modification, or reconstruction of dikes not conforming to these rules.

V. Removal of unauthorized dikes.

Parties to this agreement hereby agree that they shall immediately take whatever steps are necessary and available to remove unauthorized dikes adjacent to the boundary rivers not meeting the criteria contained in part IV above.

STATE OF MINNESOTA

\_\_\_\_\_  
Commissioner Department of Natural Resources

DATE: \_\_\_\_\_

STATE OF NORTH DAKOTA

\_\_\_\_\_  
State Engineer  
State Water Commission

DATE: \_\_\_\_\_

## Department of Revenue Adopted Rules Governing the Ad Valorem (Property) Taxes Imposed on Utility Companies

The rules published as proposed rules at *State Register*, Volume 3, Number 43, pp. 1984-1989, April 30, 1979 (3 S.R. 1984) were adopted without amendments, approved by the Attorney General on October 19, 1979, and filed with the Secretary of State on October 22, 1979.

# PROPOSED RULES

Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new rule or amendment. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

## Public Hearings on Agency Rules November 15-19, 1979

Date	Agency and Rule Matter	Time & Place
Nov. 15	Pollution Control Agency Exemption for Sparsely Populated Areas from Certain Sanitary Landfill Operating Standards	10:00 a.m., Detroit Lakes Area Vocational Technical Institute, Multi-purpose Room, South One-half Highway 34 East of Detroit Lakes, MN
Nov. 15	Same as above	7:00 p.m., Itasca Community College, Wilson Hall, Rm. 137, Rt. 3 East of Grand Rapids, MN
Nov. 19	Same as above	10:00 a.m., Pollution Control Agency Board Rm., 1935 W. Co. Rd. B2, Roseville, MN
Nov. 19	Educational Department Education Computer Systems and Veterans Refund Policy	8:30 a.m., Veterans Ser- vice Bldg., Conference Room D, 20 W. 12th St. and Columbus Ave., St. Paul, MN

## Department of Public Safety Driver License Division Certification of Motor Vehicle Insurance

### Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in Room B9 Transportation Building, John Ireland Blvd., St. Paul, Minnesota on December 12, 1979, commencing at 1:00 p.m. and continuing until all persons have had an opportunity to be heard concerning adoption of the proposed rules captioned above.

All interested or affected persons or representatives of groups or organizations will have an opportunity to participate, by submitting either oral or written data, statement, or arguments. Written materials may be submitted by mail to

Mr. Jon L. Lunde, Office of Hearing Examiners, 1745 University Avenue, St. Paul, MN, either before the hearing or within 5 days after the close of the hearing (or within 20 days if so ordered by the hearing examiner). The proposed rules are subject to change as a result of the rule hearing process. The department therefore strongly urges those who may potentially be affected by the substance of the proposed rules to participate in the hearing process.

The Commissioner proposes to adopt rules relating to the following matters:

To amend existing rules relating to the certification of insurance for registration or transfer of a motor vehicle, which rules require owners to certify, upon registration or transfer of ownership, that the vehicle is covered by a plan of reparation security (no-fault insurance). The amendments propose to include motorcycles within the scope of the rules. The proposed rules also change from mandatory to discretionary certain language in the existing rules concerning the requirement for immediate surrender of the registration certificate and license plates when department records indicate that an owner has ceased to maintain the required insurance coverage.

The Department's authority to promulgate the proposed rules is contained in Laws of 1979, ch. 190. One free copy of the proposed rules is available and may be obtained by writing to "Rules," Department of Public Safety, Room 211 Transportation Building, St. Paul, Minnesota 55155. Additional copies will be available at the door on the date of the hearing.

Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the Hearing Examiner's Report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for

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## PROPOSED RULES

review at the Department of Public Safety and at the Office of Hearing Examiners. The Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the department at the hearing, justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

The department estimates that there will be no cost to local public bodies in the state to implement the rules for the two years immediately following their adoption, within the meaning of Minn. Stat. § 15.0412, subd. of (1978).

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he commences lobbying. Minn. Stat. § 10A.01, subd. 11 defines a lobbyist as any individual engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or who spends more than \$250, not including *his own* traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone (612) 296-5615.

John P. Sopsic  
Commissioner of Public Safety

### Rules as Proposed

#### Chapter Five: Certification of Insurance for Registration or Transfer of A Motor Vehicle; Requests for Verification

**11 MCAR § 1.4051 Purpose and Scope.** The purpose of these ~~regulations~~ rules is to implement and provide effective administration of the provisions requiring and governing termination of a plan of reparation security as required by Minn. Stat. 1974, ch. 65B (1979 Supplement).

**11 MCAR § 1.4052 Scope.** The scope of these ~~regulations~~ rules is intended to be consistent with the provisions of Minn. Stat. 1974, § 65B.68 (1979 Supplement).

**11 MCAR § 1.4053 Definitions.** For the purposes of these rules, the following terms shall have the meanings ascribed to them:

A. Commissioner. The Commissioner of the Minnesota Department of Public Safety of the State of Minnesota.

B. Owner. ~~Owner~~ means a A person who holds legal title to a motor vehicle or motorcycle, or in the event that a motor vehicle or motorcycle is the subject of a security agreement or lease with option to purchase and the debtor or lessee is entitled to the immediate use or possession of the motor vehicle or motorcycle, then the debtor or lessee shall be deemed the owner.

C. Insurance policy. ~~Insurance policy~~ means a A plan of reparation security as required by Minn. Stat. 1974, ch. 65B (1979 Supplement).

D. Reparation obligor. ~~Reparation Obligor~~ means an An insurer or self-insurer as defined by Minn. Stat. 1974, § 65B.43 (1979 Supplement).

**11 MCAR § 1.4054** Every owner when applying for registration, re-registration or transfer of ownership shall supply any information the Commissioner reasonably requires to determine that the motor vehicle or motorcycle is covered by a plan of reparation security. Such information shall include but is not limited to the name and address of the owner, the name of the reparation obligor, the insurance policy number and any other data the Commissioner requires. In lieu of the information regarding reparation security, the owner may submit an affidavit, in a form prescribed by the Commissioner, that the motor vehicle or motorcycle will not be used or operated.

**11 MCAR § 1.4055** The owner shall provide such information as required by provisions of ~~Driver's License 54~~, 11 MCAR § 1.4054 when the records of the department indicate that a required insurance policy is not in effect or as circumstances indicate such information is necessary.

**11 MCAR § 1.4056** All reparation obligors shall comply with all written requests from the department to furnish information concerning the effective dates of an insurance policy.

#### Chapter Six: Suspension and Surrender of the Registration Certificate and License Plates

**11 MCAR § 1.4061** If department records indicate that any owner has ceased to maintain a required insurance policy, the Commissioner shall suspend the registration certificate and license plates for the motor vehicle or motorcycle and ~~shall~~ may demand their immediate surrender by the owner. The Commissioner ~~shall~~ may direct any peace officer to serve an order of suspension or revocation and secure any registration certificate and license plates not surrendered.

**11 MCAR § 1.4062** Upon certification that the motor vehicle or motorcycle is covered by an insurance policy and application and payment of all applicable fees, the Commissioner may issue a replacement registration certificate and license plates to the owner of a motor vehicle or motorcycle for which the registration certificate and license plates have been suspended.

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### Department of Public Welfare

#### Proposed Temporary Rules Governing the Minnesota Merit System

##### Request for Public Comment

Notice is hereby given that the Department of Public Welfare has proposed the following temporary rules amending current rules 12 MCAR § 2.490 and 12 MCAR § 2.491 for the purpose of implementing the provisions of Laws of 1979, ch. 324, § 5, pertaining to the Community Social Services Act. The proposed temporary rules shall be designated 12 MCAR § 2.490a and 12 MCAR § 2.491a.

All interested persons are hereby afforded the opportunity to submit their comments on the proposed rule for 20 days immediately following publication of this material in the *State Register* by writing to Ralph Corey, Minnesota Merit System, Department of Public Welfare, 4th Floor, Centennial Office Building, Saint Paul, Minnesota, 55155. The temporary rule may be revised on the basis of comments received. Any written material received shall become part of the record in the final adoption of the temporary rule.

October 23, 1979

Arthur E. Noot  
Commissioner of Public Welfare

##### 12 MCAR § 2.490a Definitions.

A. The following definitions apply throughout these rules, unless the context clearly requires another meaning.

A.2. "Appointing authority" means the county board, county welfare board, human service board or officer authorized by statute or lawfully delegated authority to make appointments to positions under the Merit System.

A.3. "Board" means the county board, county welfare board, or human service board.

A.7. "County agency" means the organization created by the county board, county welfare board or the human service board to carry out the functions and policies of the board with regard to community social service or income maintenance programs funded in whole or in part by federal grants-in-aid requiring a merit system of personnel administration.

A.15. "Employee" means any person in the employ of a county board, county welfare board, or human services board, exclusive of its members, who occupies a position covered by these rules and who is paid a salary or wage.

A.43. "County welfare board" means the county welfare board, county board or human service board.

##### 12 MCAR § 2.491a Statement of policy and means of effecting policy.

D. Positions covered by these rules.

1. These rules shall apply to all positions ~~created and employees in these positions~~ under the jurisdiction of ~~the Minnesota county welfare boards~~ appointing authorities engaged in the administration of community social service or income maintenance programs funded in whole or in part by federal grants-in-aid requiring a merit system of personnel management except duly appointed or elected members of these boards, and all employees of institutions, sanatoria, and hospitals under the jurisdiction of county welfare such boards, and the director of community social services. These rules shall be applicable to such positions until such time as the counties adopt and maintain rules and regulations affecting classification and compensation, examination, and certification of eligibles and other personnel standards acceptable to the Commissioner.

### Department of Public Welfare Social Services Division

#### Proposed Amendment of Foster Care for Children Rule and Proposed Adoption of a New Child Protective Services Rule

##### Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4, in the Centennial Office Building, Room A, Fourth Floor, 658 Cedar Street, St. Paul, Minnesota on December 13, 1979 commencing at 9:00 a.m.

All interested or affected persons will have an opportunity to participate concerning the rules captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to George Beck, Hearing Examiner, Office of Hearing Examiners, 1745 University Ave., St. Paul, Minnesota 55104 (612) 296-8108, either before the hearing or within five (5) working days after the close of the hearing. The hearing examiner may keep the record open for a longer period not to exceed 20

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## PROPOSED RULES

calendar days. All such statements will be entered into and become part of the record.

12 MCAR § 2.204 was promulgated April 16, 1976. It governs the administration and provision of foster care service for children and their families. Foster care service is defined as a twenty-four-hour-a-day service which provides substitute family or group home care for a planned period of time, provides experiences and conditions which promote normal growth, and provides a full range of casework and other treatment or community services to the child and his family.

The primary reasons for the Department of Public Welfare's proposal of amendments to this rule are to aid in the effective implementation of legislation enacted since the promulgation of the rule (Minn. Stat. § 257.071), to clarify the counties' responsibilities under a statute enacted in 1973 (Minn. Stat. § 260.40) and to clarify Department policies.

The rule contains a three part introduction. The third part of the introduction has been added to highlight the importance of efforts to keep families intact when possible and appropriate, thus limiting foster care placement.

The rule contains an extensive definition section in which the term "group home" has been redefined and "custodian" and "relative" have been newly defined.

The major portion of the rule contains standards for the delivery of services to children in foster care. To clarify the present rule, the section detailing when placement in licensed facilities is required has been revised. The local agency responsibilities in court-ordered and voluntary placements have been clarified by separating these into two sections. There is added the requirement that in court-ordered placements the agency inform foster parents of court hearings pertaining to any child in their care, and the requirement in voluntary placements that the agency require the child's parents or guardian to agree to provide 30 days' notice to the agency before removing the child from placement.

There are sections on major decisions affecting the child, on relationship with the schools, and on protecting a child's heritage.

The subsection on relationship between social service agencies and other agencies or institutions contains a deletion regarding an agency's need to obtain approval from another agency if it wants to evaluate for licensing a foster home in another county.

The section on practice components of service contains a number of revisions including an overall waiver option for any requirement that is not in the foster child's best interest; a waiver of the pre-placement visit for newborn infants being placed from a hospital into a foster home; specific requirements for a placement worker's initial visit to a newly-placed child, parents' initial visit with a newly-placed child, worker visits with the foster child in the first three months of placement, and worker contacts with a foster child's family.

The section on meeting a child's health needs requires the

local agency to assure that the Early and Periodic Screening, Diagnosis and Treatment services are provided to all children eligible for the Medical Assistance Program.

A new section has been added to interpret the foster care law, Minn. Stat. § 257.071. This section defines the population group to whom the law applies, the components of the written foster care service plan, and adds a requirement of a six-month administrative review of the service plan.

The rule has been revised to require that the agency's permission be obtained anytime the foster child leaves the state.

Parts of the section on financial arrangements and funding have been deleted because they already exist in statute.

The section on rates paid to foster homes is amended to waive, in certain situations, the requirement of payments of rates based upon the schedule in 12 MCAR § 2.044. The section also addresses rate requirements when a county agency contracts with another agency.

The section on foster care benefits up to age 21 interprets and clarifies the requirements of Minn. Stat. § 260.40.

Added to the section dealing with foster home recruitment and development are phrases already required by 12 MCAR § 2.001 and a requirement that if an agency learns that new applicants or presently licensed foster care providers demonstrate attitudes of racism or bigotry, the agency may not renew the foster home license.

Minor wording changes for clarity have been made in several sections.

The purpose of the Rule 207 (12 MCAR § 2.207) is to clarify the responsibility of local social service agencies in the delivery of protective services to children who are alleged to be physically or sexually abused or neglected, or who are threatened with abuse or neglect.

Rule 207 (12 MCAR § 2.207) contains an introduction stating the scope of its authority along with the purpose of the child protection system. It also contains definitions consistent with those in other rules promulgated by DPW.

Section C. contains standards and procedures for the administration of Child Protective Services at the county agency level. This includes standards and procedures for accepting and investigating reports of abuse/neglect in the child's own home, as well as in institutions, the services to be provided and the agency's responsibility to report to the state agency. It also includes local social service agency responsibility for investigating reported incidents of juvenile prostitution and children involved in the production of obscene materials or performances. Finally, it contains local agency responsibility for keeping and destroying records relating to complaints and for the provision of emergency services.

The statutory authority for 12 MCAR § 2.204 is Minn. Stat. § 256.01, subd. 2, (2); Minn. Stat. § 257.175; Minn. Stat. § 245.802; Minn. Stat. § 256E.05, subd. 3(b) (Supp. 1979).

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The statutory authority for 12 MCAR § 2.207 is Minn. Stat. § 245.813; Minn. Stat. § 256E.05, subd. 3(b) (Supp. 1979); Minn. Stat. § 256.01, subd. (2) 2; and Minn. Stat. § 626.556.

Adoption of neither Rule 204 nor Rule 207 will result in \$100,000 additional annual expenditures by local public bodies.

Copies of the proposed rule are now available and at least one free copy may be obtained by writing to Paul Spears, Department of Public Welfare, Centennial Building, St. Paul, MN 55155, telephone: (612) 296-6740. Additional copies will be available at the door on the date of the hearing.

Notice is hereby given that 25 days prior to the hearing a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed and amended rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Any person may request notification of the date on which the hearing examiner's report will be available, after which date the commissioner may not take any final action on the rules for a period of five (5) working days. Any person may request notification of the date on which the hearing record has been submitted to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner, in the case of the hearing examiner's report, or to the agency, in the case of the agency's submission or resubmission to the Attorney General.

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 as amended by Laws of 1979, ch. 59, § 3, as an individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including *his own* traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

October 25, 1979

Arthur E. Noot  
Commissioner of Public Welfare

### Amendments as Proposed

#### 12 MCAR § 2.204, Foster care-children.

##### A. Introduction.

1. This rule governs the administration and provision of foster care services to children and their families by the local social service agency- when the agency has placement and supervisory responsibilities.

2. The purpose of foster care services to children is to provide temporary substitute family or group care for a child while an intensive effort is made to correct or ameliorate improve the condition necessitating placement in order to reunite the family or, in the failure of this, to provide some other permanent plan.

3. Foster care services shall be provided only after services aimed at preventing the need for placement of a child in foster care have been considered, provided, or refused by the child's family.

##### B. ~~3.~~ Definitions.

1. Foster care service. The ~~twenty-four hour a day~~ service which provides substitute ~~twenty-four-hour-a-day~~ family or group home care for a planned period of time, provides experiences and conditions which promote normal growth, and provides to the child, and his the child's family-, and the foster parents a full range of casework services and other treatment or community services geared toward reuniting the family.

2. Local social service agency. Local agency under the authority of the County Welfare Board or Human Service Board or Board of County Commissioners which is responsible for social services.

3. State agency. Minnesota State Department of Public Welfare.

4. Foster family home. A family ~~home~~ licensed under 12 MCAR § 2.001 to provide twenty-four-hour-a-day care in their home to children who are unrelated to the family.

5. ~~Group Home. A specialized facility which provides care on a twenty-four-hour-a-day basis for a group of not more than ten children.~~

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5. Group home. A facility licensed by the Minnesota Department of Public Welfare as a group family foster home under 12 MCAR § 2.001 or as a group home under ~~12 MCAR § 2.008~~ or certified by the Department of Corrections as a ~~juvenile judges' group foster home or licensed or approved by an Indian tribe with the authority to do so.~~

6. Voluntary placement. Placement in which the local social service agency assumes responsibility for the placement of a child after ~~it~~ the agency has determined, in conjunction with the child's parent(s), and the child, if possible, or legal guardian that such placement is in the best interest of the child and his family. ~~The agency must obtain the parent(s) written consent.~~

7. Legal custody. Legal custody is defined by law as the right to care, custody and control of a child and requires the removal of the child from his or her parent(s) or legal guardian for ~~his~~ the child's welfare and/or safety. Legal custody is for a specified length of time, but not to exceed one year.

8. Custodian. Any person who is under a legal obligation to provide care and support for a child.

9. Relative. Any of the following persons related to the child by marriage, blood or adoption: parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, niece, nephew, uncle, or aunt.

### C. ~~B.~~ Services to children in foster care.

#### 1. Service delivery.

a. Placement in licensed facility. ~~With the exception of placement in a relatives' home, the local social service An agency must shall place a child in a licensed foster family or group home except in emergencies when an unlicensed foster home may be selected. In these emergency cases, the agency shall assure that application for licensure must be is made within 30 days- of the child's placement if the child is expected to remain in the home for 30 days or longer.~~

#### b. Legal basis for placement.

(1) The local social service agency ~~must have~~ shall obtain the proper authority to place a child in foster care, either through written consent of the child's parent(s) or legal guardian (voluntary placement) or with an order of the court (legal custody).

(2) Responsibilities in court ordered and voluntary placements.

(a) ~~(2)~~ When legal custody is given to a local social service agency, that agency shall:

(i) ~~(a)~~ avoid precipitous movement of the child without orderly pre-placement planning and preparation. When removal of the child is not emergent, the agency shall request permission of the juvenile court for time to place the child in an orderly fashion and, upon being granted this request, ~~may shall proceed to do so:~~ to effect the placement according to the requirements of rule and statute.

(ii) ~~(a)~~ provide information, evaluations and recommendations to assist the court in arriving at appropriate decisions and actions with regard to the child and ~~his~~ the child's family;

(iii) provide the juvenile court written reports and recommendations prior to the expiration of any order giving the agency responsibility for the child;

(iv) inform the foster parents of court hearings which pertain to any foster child in their care;

(v) ~~(b)~~ report to the court the placement of a child out of the jurisdiction of the court. Copies of such notification shall be forwarded to the child's parent(s)- or legal guardian;

(vi) ~~(e)~~ request the court to order any special treatment and care needed by the child if the child's parent or legal guardian fails to provide it;

(vii) ~~(d)~~ obtain for its record a copy of the court's findings, decisions, disposition of the case and any other information which may aid the county in providing services to the child;

(viii) ~~(b)~~ obtain the permission of the juvenile court before terminating foster care and returning the child to his or her parent(s);

~~(e) Obtain the written consent of the child's parent(s) for major decisions affecting the child, such as non-emergency surgery. If the parent(s) fail to give consent, and it is essential to the child's health or well being, a court order shall be obtained which will provide the authority to secure whatever is needed for the child. Whenever there is a question as to what shall be regarded as a decision requiring parental or judicial consent, the agency shall consult the court.~~

(ix) ~~(d)~~ obtain the written consent of the parent(s) or legal guardian and the court if a child under legal custody is to be placed in a facility outside of the state. If the parent(s) or legal guardian refuse or fail to give consent, the court's written consent is sufficient.

(b) When a child is placed in foster care by voluntary agreement between the local social service agency and the parent(s), or legal guardian the agency shall:

(i) obtain the parent(s)' or legal guardian's written consent prior to the placement;

(ii) require the parent(s) or legal guardian to agree to provide 30 days' notice to the agency before removing the child from placement.

c. Major decisions affecting child. The local social service agency shall ~~(e) Obtain~~ obtain the written consent of the child's parent(s) or legal guardian for major decisions affecting the child, ~~such as non-emergency surgery.~~ If the parent(s) or legal guardian fail to give consent, and it is essential to the child's health or well-being, a court order shall be obtained which will provide the authority to secure whatever is needed for the child. Whenever there is a question as to

## PROPOSED RULES

what shall be regarded as a decision requiring parental or judicial consent, the agency shall consult the court.

d. e- Relationship to other agencies and institutions. The local social service agency shall establish formalized agreements with those agencies and institutions which, in conjunction with the local social service agency, are serving a particular child. The purpose of such agreements is to ensure optimum cooperative planning and provision of services.

(1) ~~Juvenile Court. The local social service agency shall:~~

(1) ~~(2)~~ Schools.

(a) Prior to foster care placement, the local social service agency shall involve in the placement planning the child's present school and the one which he may attend in order to assure that the child's social, educational and extra-curricular needs will be met. The agency shall initiate contact with the schools.

(i) ~~The local social service agency is responsible for initiating contact with the schools.~~

(ii) ~~The responsibility for meeting the child's educational needs is that of the school district in which the child resides.~~

(b) If a child is to remain in the same school, the local social service agency shall notify the school at such time as the child is to be placed in foster care or when the child is to be moved to another facility.

(2) ~~(3)~~ Other social service agencies.

(a) The local social service agency shall not place a child in another county without the approval of the other county local social service agency.

(b) ~~The local social service agency shall not evaluate for licensing a foster home in another county without the approval of the other county's local social service agency.~~

(b) (e) When a local social service agency requests services of another agency in effecting a placement, or receives such a request for service from another agency, there shall be a written agreement defining the responsibilities for services to be delivered, methods for evaluation and procedures for handling foster care payments.

e. d- Group homes. The local social service agency shall provide for the utilization of group homes for children requiring such services.

(1) The choice of facility and length of stay shall be determined by the needs of the child for the specific services offered by the facility.

(2) The child's service plan shall state the rationale for placement of the child in a group facility.

(3) The local social service agency shall provide or arrange for services not available in the group facility.

f. e- Practice components of service. All local social service agencies, in delivering foster care services, shall:

(1) ~~Involve the parent and child in the development of the service plan.~~

(1)~~(2)~~ provide at least one pre-placement visit for the child to the foster or group home. This requirement is waived for newborn infants being placed from a hospital into a foster home.

(2) provide help to the child in his initial adjustment to the foster home through the placement worker's visit to the home within four days of the placement;

(3) plan with the parent(s) for a parent visit with the child within a week of the placement;

(3) ~~Provide casework and other indicated services to all children regardless of funding source.~~

(4) provide casework to the child on a planned regular basis, at least twice a month for the first three months and as frequently as necessary thereafter.

(5)~~(4)~~ provide or arrange for casework and other indicated services to the child's family on a planned regular basis, and at least twice a month; to help them:

(a) ~~Help them~~ fulfill their roles and responsibilities as parents to the placed child;

(b) ~~Help them to~~ remedy the conditions which necessitated placement;

(c) ~~Help them~~ prepare for the child's return home or, if this return home is not possible, involve them in making an alternative plan;

(d)~~(5)~~ Provide ongoing help to the child and his natural family toward developing and maintaining develop and maintain a constructive relationship with their child through a carefully planned and executed program of communication and visitation;

(6) provide ~~ongoing~~ assistance to the foster parents or group home operators with their responsibilities of incorporating the child into their family or facility. The foster parents and group home operators shall be provided a telephone number and an additional back-up number to call during the hours the agency is closed.

(7) provide follow-up services to the family and child when the child returns home to assist with the adjustment and to prevent recurrence of the circumstances which led to placement:

(8) evaluate, in conjunction with the foster par-

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ents or group home operators, the placement experience when a child leaves the facility to ascertain the facility's potential for future placements.

Those requirements listed under C.1.f. "Practice components of service" which may not be applicable for children under state guardianship as dependent/neglected or for placements of children in emergency facilities in crisis situations may be waived. The agency may also waive those requirements under C.1.f. "Practice components of service" which may be contrary to the child's best interests but must document the rationale behind such waivers.

~~g. f.~~ Provision of for meeting ~~medical~~ health needs. The local social service agency shall meet the ~~medical~~ health and dental needs of every child by:

(1) assuring that each child has a ~~pre-placement physical~~ health examination prior to placement or, in emergency situations, within two weeks thereafter; ~~in emergency situations.~~

(2) assuring that a child's ongoing ~~medical~~ health and dental needs are met;

(3) assuring that the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services are provided pursuant to 12 MCAR § 2.061 to all children eligible for the Medical Assistance Program;

(4)(3) providing the foster or group home with information about the child's immunizations and other pertinent ~~medical~~ health data with instructions for the record to be kept up-to-date;

(5)(4) providing to the foster or group home a written authorization for obtaining routine ~~medical~~ health care for the child with clear instructions as to who is to provide the care and how the billing is to be handled.

h. Service plan and review. For those children who are placed in foster family homes, group homes or relatives' homes (unless placement with the relative is planned to be permanent) and for whom the local social service agency has placement and/or supervisory responsibility, the agency shall comply with the following requirements:

(1) Service plan.

(a) The agency shall develop, in conjunction with the child's parent(s), or other custodian, the child's legal guardian, and, if possible, the child, a service plan which includes:

(i) the specific reasons for the placement of the child in a foster home, including a description of the problems or conditions in the home of the parent or parents which necessitated removal of the child from his home;

(ii) the specific actions to be taken by the parent or parents of the child to eliminate or correct the problems or conditions identified in clause (1), and the time period during which the actions are to be taken;

(iii) the financial responsibilities and obligations, if any, of the parents for the support of the child during the period the child is in the foster home;

(iv) the visitation rights and obligations of the parent or parents during the period the child is in the foster home;

(v) the social and other supportive services to be provided to the parent or parents of the child, the child, and the foster parents during the period the child is in the foster home;

(vi) the date on which the child is expected to be returned to the home of his parent or parents;

(vii) the nature of the effort to be made by the social service agency responsible for the placement to reunite the family.

(b) The agency shall advise the parents of their right to receive assistance from any person or social service agency and their right to legal counsel in the preparation of the service plan.

(c) In those situations where the child's condition or behavior may require change before placement can be terminated, the service plan shall include actions to be taken or progress to be made by the child while in placement.

(d) A detailed visitation plan shall be prepared by the agency and shall include, but not be limited to, the date and conditions of the first visit, specific days of visits, specific hours for beginning and ending of visits and special conditions of visitation.

(e) The agency shall explain to the parents that if the parents are unable to correct the conditions necessary for their child's return home, they could lose their parental rights.

(f) If the agency cannot comply with any service plan requirement, the agency shall document the reason in the record.

(2) Six-month administrative review of service plan. The local social service agency shall provide an administrative, supervisory, or conference review at least every six months for each child in placement to determine the appropriateness and adequacy of the service plan. The review shall include persons other than or in addition to the service worker responsible for the case. The administrative review may be waived if the court has reviewed the service plan within that six-month period.

(3) Review of service plan with parents and child. Within 180 days of the child's initial placement, if the child is still in foster care, the local social service agency shall review the service plan, including in the review all persons involved in the plan's preparation. The review may be waived if the court has reviewed the plan within the 180 day period.

i. h. Child's or foster parents' absence from foster home. The local social service agency's permission must be

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obtained any time the foster family and/or child are to be away from the licensed foster care facility within the state for a period exceeding three nights- or, if the child leaves the state, for any period of time.

j.i. Protecting the child's heritage. The local social service agency shall provide for the preservation of the child's religious, racial, cultural and ethnic heritage through:

(1) placement if possible and indicated in a foster home of similar background;

(2) education of the foster parents as to the importance of the heritage to the child;

(3) education of the foster parents as to the customs and values of the particular group;

(4) ~~Help~~ assistance to the foster parents or group home operators, if indicated, in their working with the child with regard to his cultural, so that they will be better able to provide a home which is accepting and supportive of the child's cultural, religious, racial, or ethnic identity.

k.j. Financial arrangements and funding considerations.

(1)(2) The local social service agency and the parent(s) shall evaluate the various resources available to meet the costs of care.

(2)(3) In accordance with applicable Minnesota law, Parent(s) shall pay for the cost of care in a manner consistent with their ability to do so.

(4) ~~When a child's parent(s) are unable to pay the costs for foster care, the responsibility shall be assumed by the local social service agency of the child's legal settlement.~~

(3)(5) If the local social service agency establishes that the parent(s) are able to meet some or all of the costs of care, but are unwilling to do so, it shall make a written report to the court for determination by the judge of the parents' responsibility to reimburse the agency. the following courses of action are indicated:

(a) For a child under legal custody, the local social service agency shall make a written report to the court for determination by the judge of the parents' responsibility to reimburse the agency.

(b) For a child placed by voluntary agreement, the local social service agency shall file a dependency or neglect petition with the court and ask the court to establish the parents' responsibility to reimburse the agency.

(4)(4) The local social service agency is responsible for shall make the payments directly to foster parents and other providers of care.

(6) ~~In any dispute as to county of financial responsibility the local social service agency providing or arranging services shall pay for such care and services pending final determination of the county of financial responsibility.~~

(7) ~~When no provision is otherwise made by law for the care, examination or treatment of a child, the costs shall be paid by the welfare fund of the responsible county.~~

l.k. Rates paid to foster home.

(1) Rates paid for children in foster care shall be uniform regardless of funding source, and maintenance rates paid for children in foster care shall be established pursuant to DPW Rule 44. 12 MCAR § 2.044. This requirement is waived when the local social service agency is being reimbursed pursuant to 12 MCAR § 2.030, Cost of Care for Mentally Retarded or Epileptic, or Emotionally Handicapped Children.

(2) When foster care is provided for a child through contract with another public or private agency, maintenance payments to the cooperating agency's foster care facilities shall be determined according to 12 MCAR § 2.044. If the local social service agency is contracting for administrative or social service costs, payments to the cooperating agency shall be an amount which is additional to the maintenance rates established in 12 MCAR § 2.044.

m. Foster care benefits up to age 21.

(1) Within the six months prior to a child's 18th birthday, the local social service agency shall advise the child, the child's parents or legal guardian, and the foster parents of the availability of benefits up to age 21 of the foster care program.

(2) Upon the request of a person between the ages of 18 and 21 who is not under state guardianship as dependent/neglected and who had been receiving foster care benefits immediately prior to his or her 18th birthday and who is in foster care at the time of the request, or upon the request at any time between the ages of 18 and 21 of a person who had been under state guardianship as dependent/neglected, the local social service agency shall develop, in conjunction with the foster child and other appropriate parties, a specific plan related to that person's vocational, educational, social or maturational needs and shall assure that any maintenance or counseling benefits are tied to that plan.

g. Service record. ~~The local social service agency shall maintain a service record for each child that provides, in addition to general service plan requirements, accountability for:~~

(1) ~~The authority to place the child.~~

(2) ~~Implementation of foster care services as spelled out in Practice Components of Service.~~

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# PROPOSED RULES

(3) Medical care provided to the child.

(4) Record of the child's placements.

## C. Resource development

### D. Foster home recruitment and development.

1.a. The local social service agency shall attempt to recruit and license a sufficient number and variety of foster homes to allow for a choice in the selection of a home for a child in order to be able to meet the particular needs of each child needing placement.

2.b. The local social service agency shall provide for the development of foster parents by:

a.(1) provision of training on an ongoing basis;

b.(2) provision of opportunities to attend educational workshops and conferences;

c.(3) provision of opportunities for recognition, such as an annual recognition dinner, service awards and publicity through the news media.

3.(4) The local social service agency shall involvement of the foster parents on an advisory basis in the development of policies and procedures pertaining to foster care.

4.(e) Before recommendation for relicensure, the local social service agency, in conjunction shall evaluate with the foster parents, shall evaluate the home before recommendation for relicensure, to assess factors in the home pertinent to continued utilization of the home as a foster care resource. These factors shall include the services provided by both the foster family and the agency and an evaluation of the year's placement experiences. A copy of the evaluation shall be given to the foster family.

5. The local social service agency shall assess the foster care applicant's or foster care provider's capacity for accepting children of another race, religion, color or national origin. If the family's reason for refusing to accept such children is based upon racism or bigotry, that is, negative attitudes toward people of a particular race, religion, color or national origin, the agency shall, in the case of a new applicant, refuse to recommend the home for licensure. If the agency ascertains the existence of racism or bigotry in a licensed foster family home, the agency shall, at time of relicensure, establish a plan for phasing the home out of the foster care program and no additional children shall be placed in the home.

## MINN. RULE DPW 207 Protective Services to Children

### (I) Introduction

(a) This rule governs the administration and provision of protective services to children through local social service agencies.

(b) The purpose of a child protective service system is to carry out community responsibility for safeguarding the rights and welfare of children whose parents are unable or unwilling to do so.

(c) Local Social Service Agency: Local agency under the authority of the county welfare or human services board which is responsible for social services.

(d) State Agency: Minnesota Department of Public Welfare.

(e) Any child in Minnesota who is in need of protection is to receive such service in the county in which the child lives or is found, irrespective of family income and legal or poor relief settlement of the child or family.

### (II) Administration and Organization of Protective Services Program

(a) Local Social Service Agency Responsibility in Assessing Child Abuse or Neglect Reports

(1) The local social service agency must accept all complaints alleging that a child has been abused or neglected.

(2) Every report alleging maltreatment of a child shall be assessed at the time of its receipt to determine the agency's initial response to the allegations.

(3) An initial contact with the family must be made based on the following assessments of the report:

(A) A child in need of immediate care by virtue of being abandoned, life-threatened, or likely to experience physical injury due to abuse, requires an immediate contact with the family to determine the harm or threatened harm to the children involved and the risk to such children if they continue to remain in the existing home environment or return to such environment.

(i) if the protective service worker determines that the child is in need of immediate care

(aa) the parents or caretakers must be given the opportunity to voluntarily place the child or seek an alternative that assures the safety of the child and is agreeable with the protective service worker.

(bb) if the parents or caretakers are unwilling or unable to cooperate in the protection of the child, the protective service worker shall

(i-) petition the juvenile court for the immediate custody of the child.

or

(ii-) seek the assistance of a peace officer in taking a child into custody that such peace officer reasonably believes is in danger.

(ii) if the protective service worker determines that the child is not in need of immediate care and neglect or abuse is present

(aa) the parents or caretakers shall be given the opportunity to voluntarily cooperate in resolving the problem

(bb) and the parents or caretakers are unwilling or unable to cooperate, the worker shall seek the authority of the court to intervene.

## PROPOSED RULES

(iii) if the protective service worker determines that the child is not in need of immediate care and neglect or abuse is not present the protective worker may

(aa) offer other services appropriate to need or seek to refer family to other community agency

(bb) inform the family of the agency's availability and willingness to work with the family in the future.

(B) A child not in need of immediate care but allegedly physically or sexually abused requires a contact with the family within 24 hours.

(C) A child not in need of immediate care but allegedly neglected requires a contact with the family within 72 hours.

(D) Reports for which no response is required include those which do not fall within the parameters of child maltreatment (although a referral to a more appropriate agency may be made); those which do not contain enough information to be investigated; or those which concern a situation that has recently been investigated and determined to be unsubstantiated.

(4) The local social service agency shall assess the need for protective intervention in each case in which a report is filed and shall develop a plan which meets the needs of the child and family. In assessing the propriety of intervention, the local social service agency shall consider:

(A) Family composition, including the names, addresses, ages and sexes of the child or children named in the report.

(B) The physical or emotional harm to the children involved. A determination of the present condition of the children should be made as well as an assessment of prior injuries, abuse, or maltreatment. In addition, the local social service agency should attempt to identify the person or persons responsible for the maltreatment, evaluate the home environment and assess the risk of such children if they continue to remain in the existing home environment. Finally, there should be a determination of the nature, extent, and cause of any other condition enumerated in the report.

(C) The protective treatment and ameliorative services that may prevent further maltreatment and improve the home environment as well as the parent's ability to adequately care for the children.

(5) The local social service agency shall document in the record whether the report is substantiated or unsubstantiated not more than ninety days after receipt of the initial report. At the conclusion of the investigation, the subjects of the report shall be notified in writing of the local social service agency's determination whether the report has been substan-

tiated or unsubstantiated. The subjects of the report shall be notified of right to review the report pursuant to applicable Minnesota Law.

### (A) Records Relating to Substantiated Reports

(i) Records relating to reports made pursuant to Minnesota Statutes 626.556, which is supported by evidence obtained during the local social service agency's investigation shall be destroyed seven years after the date of the final entry in the case record.

(ii) The name of the individual submitting the report shall be disclosed only upon court order, or with the knowledge and consent of the individual making the report.

### (B) Records Relating to Unsubstantiated Reports

(i) Records relating to reports made pursuant to Minnesota Statutes 626.556 shall be destroyed immediately and the name of the individual submitting the report shall be disclosed upon request of the subjects of the report.

(ii) Records relating to reports which upon initial investigation cannot be substantiated to the satisfaction of the local social service agency may be kept for one year. As the reports are clearly not unsubstantiated, the name of the individual submitting the report shall not be disclosed unless the report is found to be unsubstantiated, or one year passes, or with the knowledge and consent of the individual submitting the report.

### (C) Reports to the State Agency

(i) Every incident of suspected physical or sexual abuse reported to the local social service agency shall be reported to the state agency on forms provided by the state agency.

(aa) All reported incidents of physical or sexual abuse, shall be sent to the state agency within 20 days after receipt of the report, except for the reports which are required to be sent to the state agency within 24 hours as defined in Section (H) (a) (5) (c) (i) (bb).

(bb) The form must be submitted to the state agency within 24 hours for reports alleging that the perpetrator is a local staff person or for incidences occurring in a facility supervised or evaluated for licensing by the local social service agency. The report will be reviewed by state agency personnel for assurance that the child is being protected.

(cc) An amended report shall be forwarded to the state agency whenever reports are either substantiated or unsubstantiated.

(ii) Reports to the state agency are summary data to be used for statistical purposes only. Identifying information about the child or its family of the individual suspected

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of perpetrating an incident of physical or sexual abuse should not be furnished to the state agency.

(iii) The local social service agency must provide its county number as a prefix and the case number to all reports containing statistical data pertaining to physical or sexual abuse. This number will be used by the state agency to communicate with the local social service agency when it is necessary to amend previously submitted reports or identify those reports needing additional statistical data.

(6) The agency shall offer the family services best adapted to need as determined by the investigation and evaluation.

(A) The family shall be informed of its right to accept or reject service.

(B) The local social service agency shall provide services to the family to help correct or alleviate the conditions of abuse or neglect.

(C) The local social service agency shall provide services that preserve the child within his own family unit and assure the child a safe environment.

(D) The family shall be informed of the agency's statutory authorization to seek court intervention when services are rejected and the child appears to need care or protection.

(E) When the need for removal of the child from his home is not emergent, the local social service agency should request permission of the juvenile court for sufficient time to place the child in an orderly fashion.

(i) When the child is removed from his home, the local social service agency shall obtain the consent of the child's parents for major decisions affecting the child. If the parents fail to consent, a court order may be obtained.

(ii) The local social service agency shall attempt to obtain consent of the child's parents and juvenile court if a child under legal custody is to be placed in a facility outside of the state. If the parents refuse or fail to give consent, a juvenile court order is itself sufficient.

(iii) The local social service agency shall provide the juvenile court written reports and recommendations at such times as the court may direct or prior to the expiration of any order giving them responsibility for a child.

### (b) Administrative Requirements

(1) The local social service agency must provide for the availability of protective services 24 hours per day, seven days a week, for response to emergencies.

(2) Every local social service agency shall designate a member of its staff to be responsible for the protective services program.

(3) Each agency shall designate a licensed facility which can be available seven days a week for the emergency care of abused or neglected children.

(A) The local social service agency must designate a staff member to be responsible for placements in such facility under such conditions as it deems necessary.

(B) Emergency placements shall not exceed 30 days.

(4) Every local social service agency shall coordinate its child protection activities with other agencies involved with the child's family, and may:

(A) Participate as a member of a team utilizing a multidisciplinary approach.

(B) Not assign its primary statutory responsibility to another agency.

## DPW 207 Protective Services to Children.

### A. Introduction.

1. This rule governs the administration and provision of protective services to children through local social services agencies.

2. The purpose of a child protective service system is to carry out community responsibility for safeguarding the rights and welfare of children whose parents/caretakers are unable or unwilling to do so, or whose parents/caretakers actively violate their children's rights or jeopardize their welfare.

### B. Definitions.

1. Local social service agency. Local agency under the authority of the county welfare or human services board or county board of commissioners which is responsible for social services.

2. State agency. Minnesota Department of Public Welfare.

### C. Administration and organization of protective services program.

1. Local social service agency responsibility in the delivery of child protective services.

a. Any child in Minnesota who is in need of protection is to receive such service in the county in which the child lives or is found, irrespective of family income and legal or poor relief settlement of the child or family.

b. The local social service agency must accept all complaints alleging that a child has been physically or sexually abused or neglected. Neglect includes conditions or actions which threaten either the child's physical health or the child's mental health. Upon receiving such complaints, the local social service agency shall immediately notify the local police or sheriff's department.

(1) All reports shall be assessed at the time they are received to determine the agency's initial response.

(a) For complaints alleging that a child is abandoned, life threatened, or likely to experience physical injury due to abuse an immediate on site contact with the family and/or child is required.

## PROPOSED RULES

(b) When a child is not in need of immediate care but is allegedly physically or sexually abused, the local social service agency shall contact the family within 24 hours.

(c) When child is not in need of immediate care but is allegedly neglected, the local social service agency shall contact the family within 72 hours.

(d) Reports for which no response is required include those which do not fall within the parameters of child maltreatment (although a referral to a more appropriate agency may be made); those which do not contain enough information to be investigated; or those which concern a complaint that has recently been investigated and determined to be unsubstantiated.

(2) Where contacts with the family are required the child protection worker shall assess the validity of the complaint.

(3) If upon the initial assessment there appears to be substance to the complaint, the child protection worker shall attempt to determine the following:

(a) the risk posed if the child or children involved remain in the home environment;

(b) the current physical and/or emotional condition of the child or children involved, as well as an assessment of prior injuries;

(c) the name, address, age, sex and relationship of the alleged perpetrators to the involved child/children;

(d) family composition, including the name, age, and sex of the child or children involved.

(4) If the child protection worker determines that neither neglect nor abuse are present but that the family may be experiencing problems, the worker may:

(a) offer the family such services as may be appropriate;

(b) inform the family of the agency's availability and willingness to work with the family upon request.

(5) If the child protection worker determines that the child is in need of immediate care due to circumstances or surroundings that jeopardize the child's physical or mental health or welfare, the parents must be given the opportunity to voluntarily place the child or seek an alternative that, in the worker's judgment, assures the safety of the child.

(6) If when given the opportunity, the parents are unwilling or unable to cooperate, the child protection worker shall petition the court for immediate custody of the child or seek the assistance of a peace officer in taking the child into custody.

c. Where the need for protective intervention has been established, the local social service agency shall, whenever possible, provide services that preserve the child within the family unit while at the same time assuring the child a safe environment. Such services may include, but are not limited to:

(1) family counseling;

(2) homemaking services;

(3) referral to parent support organizations or to courses in parenting or child care such as may be available in the community.

d. If services necessary to provide the child a safe environment are rejected, the child protection worker shall petition the court for authorization to intervene.

e. When the need for removal of a child from its home is considered necessary but not emergent, the local social service agency shall request permission of the juvenile court for sufficient time to place the child in an orderly fashion.

(1) When a child is under legal custody and has been removed from its home, the local social service agency shall obtain the consent of the child's parents for major decisions affecting the child. If the parents fail to consent, and the decision is essential to the child's health and safety, a court order may be obtained.

(2) The local social service agency shall obtain the written consent of the child's parents, and a court order, if a child under legal custody is to be placed in a facility outside the state. If the parents refuse or fail to give consent, a court order is sufficient.

(3) The local social service agency shall provide the court written reports and recommendations at such times as the court may direct or prior to the expiration of any order giving it responsibility for a child. Such reports shall contain information sufficient to support the recommendation and to enable the court to make a decision in the child's best interest.

f. Local social service agency responsibility in accepting reports of acts of prostitution or involvement in the production of obscene material or performances by persons under 18 years of age.

(1) Upon receiving a report of juvenile prostitution or juveniles involved in the production of obscene material or performances, the local social service agency shall:

(a) assess the victim's circumstances to determine the need for protective services;

(b) provide counseling and assistance to the victim in order to encourage and support her/him in discontinuing in prostitution; or involvement in the production of obscene acts or material;

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(c) offer the victim and the victim's family such services as may be needed to:

- (i) protect the victim;
- (ii) preserve or reestablish family relationships.

(d) If such services are rejected, inform the victim and family of the agency's responsibility and authority to seek juvenile court intervention.

(2) If immediate custody is necessary to protect the victim or to restrain the victim from engaging in prostitution, or involvement in the production of obscene acts or material, the protective service worker shall request a juvenile court order granting the agency temporary legal custody.

g. When child maltreatment is reported in a state supervised or licensed facility, including a foster home, the local social service agency shall:

(1) immediately contact the facility to determine the validity of the report;

(2) where such reports are valid, the local social service agency shall:

(a) assess present risk to the child and assure steps are taken to protect the child;

(b) as soon as possible, inform the child's parents or guardians of the incident;

(c) when an incident involves a child placed out of his/her home county, inform the agency responsible for the child's placement;

(d) make an oral report to the state agency within 24 hours. Such reports shall include:

(i) the identity of facility in which the incident occurred, the name, age and sex of the victim and the name and status of the alleged perpetrator if known;

(ii) the nature and extent of the child's injuries, measures taken to assure necessary treatment and protection, and the name of the protective services worker responsible for investigating the incident.

h. Every incident of suspected physical or sexual abuse or neglect reported to the local social service agency shall be reported to the state agency on forms provided by the state agency.

(1) Such reports shall be sent to the state agency within 20 days of receipt of the report.

(2) Reports to the state agency are for statistical information only. The identity of the victim, the victim's family and suspected perpetrator should not be included on the copy of the report sent to the state agency.

i. The local social service agency shall assess and classify and record all reports as either substantiated, unsubstantiated, or unable to substantiate within 90 days of receiving the initial report. At the conclusion of the assessment the subjects of the report shall be notified in writing of the agen-

cy's determination of the classification of the report. The subjects of the report shall also be informed of their right to review the report subject to applicable Minnesota law.

(1) Records relating to substantiated reports.

(a) Records relating to reports made pursuant to Minn. Stat. § 626.556 which are supported by evidence and information obtained during the assessment, and are determined by the agency to be substantiated, shall be destroyed seven years following the date of the final entry in the case record.

(b) The name of the individual submitting a report which is determined to be substantiated shall be disclosed only upon court order, or with the knowledge and consent of the person making the report.

(2) Records relating to unsubstantiated or false reports made pursuant to Minn. Stat. § 626.556 shall be destroyed immediately, upon determination that they are unsubstantiated and the name of the individual submitting the report shall be disclosed upon request of the subject of the report.

(3) Records relating to reports which upon initial assessment cannot be substantiated to the satisfaction of the local social service agency may be kept for one year. Since there is substance to the reports, and they are, therefore, not unsubstantiated, the name of the individual making the report shall not be disclosed unless the report is later found to be unsubstantiated, or one year passes, or with the knowledge and consent of the person making the report.

2. Administrative requirements.

a. The local social service agency must provide for the availability of protective services 24 hours per day, seven days a week, for response to emergencies.

b. Every local social service agency shall designate a member of its staff to be responsible for the protective services program.

c. Each agency shall designate a licensed facility which can be available seven days a week for the emergency care of abused or neglected children.

(1) The local social service agency must designate a staff member to be responsible for placements in such facility under such conditions as it deems necessary.

(2) Emergency placements shall not exceed 30 days.

d. Every local social service agency shall coordinate its child protection activities with other agencies involved with the child's family and may:

(1) participate as a member of a team utilizing a multidisciplinary approach;

(2) not assign its primary statutory responsibility to another agency.

## Department of Revenue

### Proposed Rules Relating to An Income Tax Energy Credit (13 MCAR § 1.6020)

#### Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in Room 83, State Office Building, 435 Park Street, St. Paul, Minnesota 55155, on December 17, 1979, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate by offering testimony and by asking questions. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Jon L. Lunde, Office of Hearing Examiner, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-5938, either before the hearing or within five days after the close of the hearing, or for a longer period, not to exceed 20 calendar days if prescribed by the Hearing Examiner.

The agency estimates that there will be no cost to local public bodies in the state to implement this rule for the two years immediately following its adoption within the meaning of Minn. Stat. § 15.0412, subd. 7 (1978).

The proposed rules, if adopted, will govern the interpretation of the income tax energy credit. The proposed rule provides standards that earth sheltered dwelling units, biomass conversion equipment and passive solar energy systems must meet in order to qualify for the energy credit. The proposed rule explains the allowance of the state energy credit for expenses that qualify for the federal renewable energy source credit. The proposed rule also explains the relationship of the energy credit to other income tax credit provisions, the treatment of joint owners, shareholders of a family farm corporation, and partnerships, and the definition of the terms building, dwelling unit, and principal residence.

Copies of the proposed rules are now available, and one free copy may be obtained by writing to Gerome Caulfield, Director, Income Tax Division, 2nd Floor, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55145, (612) 296-3436. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minn. Stat. § 290.52 and Laws of 1979, ch. 303, Article V, § 2.

Notice is hereby given that 25 days prior to the hearing a Statement of Need and Reasonableness will be available for

review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after commencing lobbying. "Lobbyist" means any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including *his own* traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

"Lobbyist" does not include any:

(a) Public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity.

(b) Party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action;

(c) Individual while engaged in selling goods or services to be paid for by public funds;

(d) News media or their employees or agents while engaged in the publishing or broadcasting or news items, editorial comments or paid advertisements which directly or indirectly urge official action;

(e) Paid expert witness whose testimony is requested by the body before which he is appearing but only to the extent of preparing or delivering testimony; or

(f) Stockholder of a family farm corporation as defined in Section 500.24, subd. 1, who does not spend over \$250, excluding his own travel expenses in any year in communicating with public officials; or

(g) Party or his representative appearing to present a claim to the legislature and communicating to legislators only by the filing of a claim form and supporting documents and by appearing at public hearings on the claim.

Questions should be directed to the Ethical Practices

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## PROPOSED RULES

Board, 41 State Office Building, Wabasha Street, St. Paul, Minnesota 55155, phone number (612) 296-5615.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the agency (in the case of the agency's submission, or resubmission to the Attorney General).

October 26, 1979

Clyde E. Allen, Jr.  
Commissioner of Revenue

### Rules as Proposed (All new material)

#### 13 MCAR § 1.6020 Energy credit.

##### A. General provisions.

1. Residence. For purposes of this credit, a building or dwelling unit must be the taxpayer's principal residence. The term "principal residence" is defined as that residence which would qualify for the nonrecognition of gain on the sale and the rollover of that gain when a new principal residence is purchased except that no ownership requirement is imposed. The period for which a building or a dwelling unit is treated as the principal residence of the taxpayer includes the 30 day period ending on the first day on which it would (but for this sentence) be treated as the taxpayer's principal residence. The term "building" includes a single family dwelling, duplex, condominium unit, townhouse, cooperative unit, and any other residential building containing six dwelling units or less. A condominium unit, a townhouse, or a cooperative unit which is used by a taxpayer as his principal residence will each qualify separately for purposes of this credit regardless of how many units are in the building. A taxpayer who buys or rents a residential unit in a condominium, townhouse or a cooperative need only buy or rent that unit and not the entire physical structure to qualify for this credit.

Individuals who rent a dwelling unit as their residence can claim this credit. The dwelling unit must be located in a building that contains six dwelling units or less.

If less than 80 percent of the use of a building or dwelling unit is for use as the taxpayer's principal residence, only that portion of the expenditures for that building or dwelling unit which is properly allocable for use as the taxpayer's principal residence shall be taken into account. A swimming pool shall be treated as a use which is not for residential purposes. This allocation provision does not apply to biomass conversion equipment.

2. A taxpayer must actually purchase the equipment or earth sheltered dwelling to qualify for this credit. The

expenses connected with the leasing of equipment or the leasing of an earth sheltered dwelling do not qualify for this credit. Expenditures will qualify even though they are paid for as the result of a federal or state grant, but only to the extent that the grant was included in federal adjusted gross income.

3. A contractor can receive this credit on a building that he has constructed if he is the first individual to use the building or dwelling unit as his principal residence.

4. For purposes of this credit, a taxpayer is entitled to use only the first \$10,000 of renewable energy source expenditures. The \$10,000 of expenditures to which the taxpayer is entitled includes the expenditures that he personally made, and the proportionate share of expenditures to which he is entitled as a partner in a partnership, as a shareholder in a Subchapter S corporation, as a tenant shareholder in a cooperative housing corporation, as a member of a condominium management association, or as a shareholder in a family farm corporation. No taxpayer shall be allowed to claim a total amount of more than \$2,000 in total energy credits for all years.

5. The increase in the basis of property because of expenditures which qualify for this credit shall be reduced by the amount of the energy credit that was claimed for that property.

6. A shareholder in a family farm corporation is allowed to claim this credit for any of the expenditures that qualify for one of the four parts of this credit, notwithstanding the fact that an earlier provision of the law limits three of the four parts of this credit to individual taxpayers. A partnership will be treated as an individual taxpayer and expenditures that qualify for the energy credit which are made by the partnership, may be claimed by the partners as joint owners. For purposes of this credit, an electing small business corporation will qualify as a corporation and not as a partnership.

7. A shareholder of a family farm corporation is allowed to claim this credit in the same manner as a joint owner of property that otherwise qualified for the credit. All joint owners will be treated as one taxpayer (and so qualify for only one \$2,000 energy credit) with the same taxable year. Each joint owner will be allowed, with respect to the expenditures, a credit for that taxable year in an amount, which bears the same ratio to the total amount allowable, as the amount of the expenditures made by the joint owner during the taxable year bears to the aggregate of the expenditures made by all joint owners during the taxable year. If a Subchapter S or a family farm corporation makes the expenditure, the expenditure may be divided among the shareholders based on the percentage of their stock ownership in the corporation.

8. The Department of Revenue, on behalf of a requesting taxpayer, shall furnish the Energy Agency with a copy of the energy credit form that has been completed by the taxpayer so that the taxpayer and the Department of Revenue may receive technical advice and assistance from the Energy Agency and so that the Energy Agency may compile information on the use of this credit.

## PROPOSED RULES

9. The energy credit, pollution control credit and feedlot pollution control credit shall be applied after all other nonrefundable credits. If the expenditures otherwise qualify, the taxpayer may elect which credit (including the carryforward) will be used. This election may be amended at any time before the expiration of the statute of limitations. If an expenditure otherwise qualifies the taxpayer may claim both the energy credit and the feedlot pollution control credit or pollution control credit on that property but the energy credit must be used first and the expenditures allowable for the feedlot pollution control credit or pollution control credit must be reduced by the expenditures that have been used for the energy credit.

10. As used in this rule, the term "R" value is the measure of resistance to heat flow through a material or the reciprocal of the heat flow through a material expressed in British thermal units per hour per square foot per degree Fahrenheit at 75 degrees Fahrenheit mean temperature. The term "U" value is the thermal transmission of heat in unit time through unit area of a particular body or assembly, including its boundary films divided by the difference between the environmental temperatures on either side of the body or assembly; (Btu/Hr·Ft<sup>2</sup>·F°). Also the reciprocal of total R-Value.

B. Piggybacked federal renewable energy source credit. Any expenditure that qualifies for the federal renewable energy source credit, including expenditures for labor costs, geothermal energy, wind energy for electricity, renewable energy used to heat water, and any other expenditures which are allowable for the federal credit, would also be allowable for purposes of the state piggybacked credit provided that the building is located in Minnesota and does not contain more than six dwelling units. Expenditures that are allowable are only those that were allowable on the date that the legislature has specified for purposes of adopting the federal credit provisions. If an expenditure qualifies for both the federal energy conservation credit and for the federal renewable energy source credit and the taxpayer used the expenditure for the federal conservation credit, the taxpayer can use that expenditure for the state piggybacked federal renewable energy source credit provided that the expenditure otherwise qualifies.

C. Earth sheltered dwelling units. Expenditures that qualify for the credit for earth sheltered dwellings include material, labor and other construction costs incurred to construct the dwelling. The structure of the earth sheltered dwelling unit must meet the standards of the Minnesota building code even though the code may not be in effect in that area. The earth sheltered dwelling unit's structure must also comply with all three tests which are contained in clause (b) (1)-(3) of the law and which are as follows:

- "(1) 80 percent or more of the roof\* area is covered with a minimum depth of 12 inches of earth; and
- (2) 50 percent or more of the wall area is covered with a minimum depth of 12 inches of earth; and
- (3) Those portions of the structure not insulated with a minimum of seven feet of earth shall have additional insulation;"

The roof area contained in clause (b) (1) that must be covered with earth means that area of the roof that is above the area used for residential living which is heated. The roof area that must be covered with earth does not include the roof area for a garage. For clause (b) (2) the term "wall" means the exterior walls of the residential living area. The walls of a garage are not included in this definition. If a garage is attached to the exterior walls of the residential living area, that area of the exterior wall of the residential living area that is part of the attached garage is not counted in the area of the wall that must be covered with earth. The wall must be covered with a minimum horizontal depth of 12 inches (30 cm) of earth. The term "structure" contained in clause (b) (3) means the exterior walls and roof as defined for clauses (b) (1) and (2). In clause (b) (3) the additional insulation that will be required is the amount of insulation that is needed to equal the following requirements:

1. All of the components of the wall below grade to 7 vertical feet (2.1 m) below grade must have at least a combined minimum R value of 11.50 F°·Hr·Ft<sup>2</sup>/Btu (2.03 m<sup>2</sup>·K/W), not including the thermal resistance of the earth. Insulation below grade which extends out from the wall may be included in the combined R value.

2. The wall which is above grade and which is not covered with a minimum of 7 horizontal feet (2.1 m) of earth and which is not part of a passive solar system must meet the following criteria:

- a. The opaque wall area may not exceed a maximum U value of 0.0555 Btu/Hr·Ft<sup>2</sup>·F° (0.315 W/m<sup>2</sup>·K).

- b. The glazing area must not exceed a maximum U value of 0.47 Btu/Hr·Ft<sup>2</sup>·F° (2.7 W/m<sup>2</sup>·K) and must not exceed a maximum area which is more than 10% of the floor area of the room in which it is installed. The maximum glazing area for a room shall be reduced by the amount of collection aperture glazing installed in that room. Glass doors shall be considered as glazing area.

- c. The doors must not exceed a maximum U value of 0.40 Btu/Hr·Ft<sup>2</sup>·F° (2.3 W/m<sup>2</sup>·K).

\*A computer typing error was made here in the final copy of the conference committee report on H.F. 1495 (Laws 1979, Chapter 303). The law contains the word "wall" and not the word "roof." However, it is clear that this was a technical mistake and the Department is proposing a law change to the 1980 legislature.

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## PROPOSED RULES

### 3. Roof/ceiling.

a. A roof/ceiling which is covered with less than 7 vertical feet (2.1 m) but with 12 vertical inches (30 cm) or more of earth may not exceed a maximum U value of 0.045 Btu/Hr·Ft<sup>2</sup>·F° (0.25 W/m<sup>2</sup>·K), not including the thermal resistance of the earth.

b. A roof/ceiling which is covered with less than 12 vertical inches (30 cm) of earth may not exceed a maximum U value of 0.027 Btu/Hr·Ft<sup>2</sup>·F° (0.15 W/m<sup>2</sup>·K), not including the thermal resistance of the earth.

D. Biomass conversion equipment. The term "biomass conversion equipment" means equipment which is located in Minnesota and which is (1) equipment for the production of gaseous fuels from biomass sources by biological or physical-chemical processes. To qualify for the credit, the gaseous energy produced shall sustain combustion, by itself, in air. Examples of the type of equipment that qualify for the credit are methane digestors, and destructive distillation equipment. (2) Equipment for the production of liquid fuels from biomass sources by biological or physical-chemical processes. To qualify for the credit, the liquid fuel produced shall sustain combustion, by itself, in air, and shall contain ethanol or methanol.

The gaseous energy or liquid fuels produced by the equipment shall not be sold or offered for sale.

The term "biomass sources" means wood, wood residues, agricultural crops, agricultural crop residues, other plant materials, human or animal manure, and food processing waste.

A taxpayer who is a corporation (including an electing small business corporation), a bank, a trust or an estate may claim the credit for biomass conversion equipment.

### E. Passive solar energy system.

1. General. The term "passive solar energy system" means a system which utilizes the building or an attached building (such as a greenhouse) and its operable components to heat and cool the building or a portion thereof by utilizing the sun's energy by means of conduction, convection, radiation or evaporation.

A system shall include collection aperture and storage element designed to store heat from solar radiation, and it may include control, distribution or retention elements.

Only the cost of equipment, materials, and devices which are integral parts of a passive solar energy system and the actual cost of labor for system installation are eligible expenditures. Expenditures for equipment, materials, or devices which are a part of the conventional (nonrenewable energy) heating, cooling, or insulation system of the building are not eligible for the credit. The entire expenditure for each integral component and associated labor costs is eligible for the credit unless indicated below.

To qualify for the credit, a passive solar energy system must reasonably be expected to remain in operation for at least five years.

2. Collection aperture. The term "collection aperture" means:

a. Double glazing material installed in walls which face south, plus or minus 30 degrees and fully exposed to the sun for at least four hours on December 21. The area of glazing shall exceed the lesser of 15 percent of the floor area of the room in which the glazing is installed or 8 percent of the floor area of the habitable rooms within the dwelling unit. The entire expenditure for glazing shall qualify for the credit.

b. Double glazing material installed in a roof which is elevated at an angle of at least 45 degrees from horizontal and which faces the south, plus or minus 30 degrees. Such glazing shall be fully exposed to direct solar radiation for at least four hours on December 21. A taxpayer who has installed both a wall and a roof collection aperture may qualify.

3. Storage element. The term "storage element" means thermal mass in the form of water, masonry, brick, rock, concrete or other material with heat storage performance equivalent to or better than that of any of these forms of thermal mass. The thermal mass must be installed within the insulated shell of the building or attached building and it must be insulated from the earth by materials with at least an R value of 6.5 F°·Hr·Ft<sup>2</sup>/Btu (1.1 m<sup>2</sup>·K/W). The thermal mass must have a storage capacity of at least 15 Btu per degree fahrenheit per square foot (300 kJ/K·m<sup>2</sup>) of aperture area. The thermal mass shall be situated so that at least half of it is completely exposed to the sun's direct radiation for four hours on December 21. The exposed half of the thermal mass must not be shielded from direct solar radiation by hangings, rugs, carpet, furniture, etc. Thermal mass which is heated by forced convection can also qualify. An example would be that of a system in which a blower forces solar air from a collection area through a rock bed, when the rock bed has been insulated to prevent heat loss into the earth or outside air.

The entire amount of the expenditures and labor costs allocable to qualifying thermal mass will be allowed. Concrete slab floors uninsulated from the earth and swimming pools do not qualify as a storage element for purposes of this credit. Stone and masonry materials used in fireplace construction, which meet the above requirements for thermal mass, may qualify as a storage element. The flues and other mechanical devices of a fireplace do not qualify.

4. Control and distribution element. The term "control and distribution element" means fans, exhausts, vents, dampers, sensors, controllers, air ducts, louvers or other equipment when used exclusively to facilitate the distribution of solar heat.

5. Retention element. The term "retention element" means movable insulation which is installed to reduce heat loss through the collection aperture of the passive solar energy system at night. All of the movable insulation installed on that collection aperture must have a combined R value of at least 4 F°·Hr·Ft<sup>2</sup>/Btu (0.7 m<sup>2</sup>·K/W). Awnings and overhangs shall not be considered retention elements.

## PROPOSED RULES

6. Miscellaneous. The Commissioner of Revenue will require drawings, photographs, or other descriptions of a passive solar energy system from any taxpayer claiming the credit for a passive solar energy system. If the taxpayer consents, the Commissioner may consult with the Director of the Minnesota Energy Agency to secure an evaluation of the drawings, photographs, or other descriptions to determine if the system qualifies for the energy credit.

A taxpayer who has installed or is planning to install a passive solar energy system which he or she feels may achieve passive solar energy performance better than a system designed according to the criteria contained in this rule may request an advisory opinion by submitting an architectural drawing, a detailed operational description of the system and performance calculations to the Director of the Energy Agency. On the basis of this information, the Director may decide that the entire system and its integral components or some part thereof qualifies for the credit. The taxpayer shall furnish the Department of Revenue with a copy of the Director's Opinion when claiming this credit.

The original use of the passive solar energy system must begin with the taxpayer who claims the credit. Expenses for normal maintenance on the passive solar energy system do not qualify for the credit. Replacement expenditures of a capital nature to replace all or part of the passive solar energy system do qualify for the energy credit provided that the taxpayer must add these expenditures to the other expenditures that he had already claimed for the energy credit. Those passive solar energy system expenditures which exceed a reasonable cost amount, which serve no additional passive solar function, or which serve a purely aesthetic function, shall not be allowed.

## Department of Transportation

### Proposed Amendment of Rules Governing Weight Limitations on Interstate Highways & Designated Routes

#### Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 in the State Office Building, Room 81, Wabasha Street, Saint Paul, Minnesota 55155, on December 20, 1979, commencing at 9:30 a.m., and continuing until all persons have had an opportunity to be heard.

The Commissioner of Transportation has been provided the statutory authority to promulgate rules governing weight limitations on interstate highways and designated routes in Minn. Stat. § 169.832 (1978). The proposed amended rules, if adopted, would modify or newly designate certain streets or highway routes, or segment of a route, to carry the gross weights permitted under Minn. Stat. § 169.832 which are generally 20,000 pounds per single axle, 34,000 pounds per tandem axle, and a total gross weight of 80,000 pounds. Certain streets and highway routes heretofore designated by the Commissioner in calendar year 1979 are proposed for continued designation. Other routes are proposed to be added, deleted or modified in length.

A copy of the proposed amended rules is attached. Limited additional copies are now available and may be obtained by writing to the Minnesota Department of Transportation (Attention: F. C. Marshall, Assistant Commissioner for Technical Support), 413 Transportation Building, Saint Paul, Minnesota 55155. The proposed amended rules will be available at the door on the date of the hearing.

The proposed amended rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

Following the department's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Harry S. Crump, Hearing Examiner, Room 300, 1745 University Avenue, St. Paul, MN 55104, telephone (612) 296-8111 either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. For those wishing to submit written statements or exhibits it is requested that at least three (3) copies be furnished. In addition, it is suggested to save time and avoid duplication that those persons, organizations or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement on behalf of such interests. All such statements will be entered into and become part of the record. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052, and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Twenty-five days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the

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# PROPOSED RULES

evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimum charge.

The department estimates that there will be no cost to local bodies in the State to implement the rule for the two years immediately following its adoption within the meaning of Minn. Stat. § 15.0412, subd. 7 (1978).

Notice: any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted or resubmitted to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner, in the case of the hearing examiner's report, or to the agency, in the case of the agency's submission or resubmission to the Attorney General.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11, as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including *his own* traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

“Lobbyist” does not include any:

(a) Public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity.

(b) Party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action;

(c) Individual wholly engaged in selling goods or services to be paid for by public funds;

(d) News media or their employees or agents while engaged in the publishing or broadcasting of news items, editorial comments or paid advertisements which directly or indirectly urge official action;

(e) Paid expert witness whose testimony is requested by

the body before which he is appearing, but only to the extent of preparing or delivering testimony; or

(f) Stockholder of a family farm corporation as defined in § 500.24 subd. 1 who does not spend over \$250 excluding *his own* travel expenses, in any year in communicating with public officials; or

(g) Party or his representative appearing to present a claim to the legislature and communicating to legislators only by the filing of claim form and supporting documents and by appearing at public hearings on the claim.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

October 29, 1979

Richard P. Braun  
Commissioner of Transportation

## Amendments as Proposed

### 14 MCAR § 1.5050 Weight limitations on interstate highways and designated routes.\*

A. Purpose. The purpose of these rules is to carry out the mandate of the legislature and to effectuate that mandate as set forth in Minn. Stat. § 169.832 with reference to the establishment of weight limitations on interstate highways and designated routes in Minnesota.

B. Scope. The scope of these rules is intended to be confined within the framework of and consistent with Minn. Stat. § 169.832.

C. Jurisdiction and effect. These rules are adopted by the Commissioner of Transportation as the means to designate certain streets or highway routes, or segment of a route, to carry the gross weights permitted under Minn. Stat., § 169.832.

#### Trunk Highways

T.H. 1—From west state border to Jct. T.H. 32.

T.H. 2—In its entirety from west state border to Jct. T.H. 61 (I-35). FROM JCT. I-35 IN DULUTH TO ARROWHEAD BRIDGE.

T.H. 3—From Jct. T.H. 60 65 to Jct. T.H. 55.  
FROM JCT. T.H. 110 TO T.H. 212.

T.H. 4—From Jct. T.H. 14 north to Jct. T.H. 68.

T.H. 5—From west Jct. T.H. 19 to T.H. 212.  
From Jct. T.H. 41 to I-494.  
FROM JCT. I-494 TO MISSISSIPPI RIVER.  
From Mississippi River to T.H. 61 (Mounds Boulevard).

\*Explanatory Note: Both the 12 month and seasonal routes are listed together with the distinction between the two being upper and lower case type. The 12 month routes are all upper case letters. The seasonal routes utilize both upper and lower case letters. The routes are listed in numerical order and read geographically from west to east and from south to north.

## PROPOSED RULES

- T.H. 6—From Jct. T.H. 18 to east Jct. T.H. 210.
- T.H. 7—From Jct. T.H. 12 east to Jct. T.H. 15.  
FROM T.H. 15 TO JCT. I-494.  
From Jct. I-494 to Jct. T.H. 100
- T.H. 8—From Jct. I-35 to east state line (St. Croix River).
- T.H. 9—From Jct. T.H. 29 to Jct. T.H. 59.
- T.H. 10—FROM WEST STATE LINE TO BECKER COUNTY C.S.A.H. 10 (FRAZEE)  
From C.S.A.H. 10 Becker County (Frazee) to Anoka.  
From Jct. T.H. 47 to Jct. I-694.
- T.H. 12—From west state line to north Jct. T.H. 7 (Ortonville).  
From Jct. T.H. 59 to Jct. T.H. 100.  
FROM T.H. 280 TO I-694.  
FROM I-694 TO WISCONSIN.
- T.H. 13—From Jct. I-90 (Albert Lea) to west Jct. T.H. 19.  
From Jct. T.H. 282 northeast to Jct. T.H. 101.  
FROM JCT. T.H. 101 TO I-35W.
- T.H. 14—From Jct. T.H. ~~23~~ 75 to 2 miles west of I-35.  
FROM I-35 WEST TO 24TH AVENUE NORTHWEST IN OWATONNA.  
From Jct. I-35 to Jct. T.H. ~~57 (Kasson)~~ 218 (Havana).  
From Jct. T.H. 56 to Jct. T.H. 57 (Kasson).  
FROM JCT. T.H. 57 (KASSON) TO JCT. T.H. 52.  
From Jct. T.H. 52 to Jct. T.H. 61.
- T.H. 15—~~FROM SOUTH STATE LINE TO I-90.~~  
From Jct. I-90 to Jct. T.H. 257.  
~~From west Jct. T.H. 14 to Jct. T.H. 19.~~
- T.H. 16—From Jct. I-90 to east Jct. T.H. 52.  
From Jct. T.H. 44 to Jct. T.H. 61.
- T.H. 18—From Jct. T.H. 210 to north Jct. T.H. 169.  
From south Jct. T.H. 47 to north Jct. T.H. 47.  
From Finlayson (~~C.S.A.H. 64~~) to east Jct. T.H. 23.
- T.H. 19—From Jct. T.H. 59 ~~into Morton~~ to Jct. T.H. 14.  
~~From Jct. T.H. 4 to Jct. T.H. 22.~~
- T.H. 21—From south Jct. T.H. 13 to Jct. 169.
- T.H. 22—From Jct. T.H. 109 to Jct. T.H. 14.  
From Jct. T.H. 212 to Jct. T.H. 55.
- T.H. 23—From Jct. T.H. 269 to north Lyon County Line.  
From ~~Maynard~~ Granite Falls to T.H. 55.  
FROM T.H. 55 in PAYNESVILLE TO I-94.  
From Jct. I-94 to south Jct. I-35.  
From north Jct. I-35 to Jct. T.H. 123.
- T.H. 24—From Jct. I-94 to Jct. T.H. 10.
- T.H. 25—From south Jct. T.H. 5 to Norwood.  
FROM I-94 TO SHERBURNE COUNTY C.S.A.H. 11.  
From Sherburne C.S.A.H. 11 to north Jct. T.H. 10.  
From Jct. T.H. 18 to Merrifield.
- ~~T.H. 26—From south Jct. T.H. 44 to Jct. T.H. 14.~~
- T.H. 27—From Jct. T.H. 75 to Jct. T.H. 9.  
From Jct. T.H. 29 to Jct. T.H. 127.  
From south Jct. T.H. 71 to Jct. T.H. 25.  
From north Jct. T.H. 47 to Jct. T.H. 65.  
From I-35 to Jct. T.H. 73 (Moose Lake).
- T.H. 28—From west state line to south Jct. T.H. 9.  
From Morris to Cyrus.  
FROM 5TH STREET NORTHWEST IN GLENWOOD TO JCT. I-94.
- T.H. 29—From Jct. T.H. 212 to Jct. T.H. 7.  
FROM JCT. I-94 TO ITS NORTH JCT. WITH T.H. 27 (ALEXANDRIA)  
From North Jct. T.H. 27 to Parkers Prairie.
- T.H. 30—From Jct. T.H. 75 to north Jct. T.H. 59.  
From Jct. T.H. 4 to south Jct. T.H. 15.
- T.H. 33—From Jct. I-35 to Jct. T.H. 53.
- T.H. 34—From Osage to Jct. T.H. 371.
- I-35 —CONTINUOUS FROM IOWA BORDER TO 1.0 MILE NORTH OF JCT. WITH I-535 IN DULUTH. INCLUDES I-35W and I-35E FROM DOWNTOWN ST. PAUL TO VICINITY OF FOREST LAKE.
- T.H. 36—FROM JCT. I-35W TO T.H. 212 NEAR STILLWATER.
- T.H. 37—In its entirety.
- T.H. 40—From west state line to Jct. T.H. 75.
- T.H. 41—From Jct. T.H. 169 to Jct. T.H. 212.  
From Jct. T.H. 5 to Jct. T.H. 7.
- T.H. 44—From west Jct. T.H. 52 to Jct. T.H. 16.
- T.H. 47—FROM JCT. T.H. 10 IN ANOKA TO 2 MILES SOUTH OF JCT. I-694.  
From south Jct. T.H. 27 to north Jct. T.H. 18.
- T.H. 49—From Jct. T.H. 3 to north Jct. T.H. 55.
- T.H. 51—FROM I-94 TO I-694.  
FROM WEST 7TH STREET IN ST. PAUL TO I-94 (SNELLING AVENUE FROM I-94 TO MONTREAL AVENUE, THEN MONTREAL AVENUE FROM SNELLING AVENUE TO WEST 7TH STREET).

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## PROPOSED RULES

- T.H. 52—From south state line to I-90.  
FROM JCT. I-90 TO OLMSTEAD COUNTY ROAD 14, 5 MILES NORTH OF WEST JCT. T.H. 14 IN ROCHESTER.  
From Olmstead County Road 14 to Jct. T.H. 3.  
FROM PLATO BOULEVARD TO WEST CITY LIMITS OF ST. PAUL.  
FROM JCT. T.H. 100 TO ~~I-94~~ NORTH JCT. 152 (OSSEO).  
From Jct. I-94 (Vic. St. Cloud) to north Jct. T.H. 152.
- T.H. 53—From Jct. I-35 (Duluth) to south Jct. T.H. 169 (Virginia).
- T.H. 55—From Jct. T.H. ~~28~~ 29 to Brooten.  
FROM 6.5 MILES WEST OF JCT. T.H. 71 (BROOTEN) TO JCT. T.H. 23.  
From Jct. T.H. 23 to Jct. T.H. 22.  
FROM JCT. T.H. 22 (EDEN VALLEY) TO 1½ MILES EAST OF T.H. 100.  
FROM EAST 24TH STREET IN MINNEAPOLIS TO JCT. T.H. 5.  
From Jct. T.H. 5 to Jct. I-35E.  
From Jct. T.H. 110 to Jct. T.H. 61.
- T.H. 56—From ~~Jct. T.H. 63~~ Adams to Jct. T.H. 30.  
From Jct. T.H. 52 (Hampton) to Jct. T.H. 3.
- T.H. 57—From Jct. T.H. 14 to Jct. T.H. 60.
- T.H. 59—From south Jct. T.H. 30 to Jct. T.H. 23.  
From ~~west Jct. T.H. 212~~ Jct. T.H. 67 to Jct. T.H. 12.  
From south Jct. T.H. 9 to north Jct. T.H. 28.  
FROM SOUTH JCT. I-94 TO SHERIDAN AVENUE IN FERGUS FALLS. In Fergus Falls from Sheridan Avenue to north Jct. T.H. 210.  
FROM NORTH JCT. I-94 TO JCT. T.H. 10  
From Jct. T.H. 10 to Jct. T.H. 2.  
From Jct. T.H. 1 to north state line.
- T.H. 60—From south state line to east Jct. T.H. 14.  
From Jct. T.H. 57 to north Jct. T.H. 52.
- T.H. 61—From Jct. T.H. 16 to I-90.  
FROM NORTH JCT. I-90 TO 1 MILE NORTH OF T.H. 60 AT WABASHA.  
FROM HASTINGS TO JCT. I-94.  
FROM JCT. T.H. 212 (EAST 7TH STREET) TO SOUTH JCT. T.H. 96.  
From south Jct. T.H. 96 to Jct. T.H. 8.  
FROM END OF I-35 (DULUTH) TO LAKE COUNTY ROAD 2 (TWO HARBORS).
- T.H. 63—From south state line to Jct. T.H. 56.  
From Jct. T.H. 16 to Jct. I-90.  
FROM JCT. WITH I-90 TO JCT. T.H. 52.
- T.H. 65—From south state line to south Jct. I-35.  
FROM SOUTH JCT. I-35 (SOUTH OF ALBERT LEA) TO 2.3 MILES NORTH.  
From 2.3 miles north of south Jct. I-35 to north Jct. I-35.  
From Jct. I-694 to south Jct. T.H. 27.  
From Pengilly to north Jct. T.H. 169.
- T.H. 67—From west Jct. T.H. 19 to Jct. T.H. 68.
- T.H. 68—From Jct. T.H. 23 to east Jct. T.H. 19.  
From Jct. T.H. 67 to north Jct. T.H. 15.
- T.H. 71—From Jct. I-90 to Jct. I-94.  
FROM JCT. I-94 NORTH TO NORTH 4TH STREET IN SAUK CENTRE.  
From Jct. 4th Street North in Sauk Centre to Browerville.  
From Jct. T.H. 10 to Jct. T.H. 34.  
From Jct. T.H. 2 to Jct. T.H. 72 in Blackduck.
- T.H. 73—From Jct. I-35 to Jct. T.H. 27 (Moose Lake).  
From south Jct. T.H. 169 to north Jct. T.H. 169 (Hibbing).
- T.H. 74—FROM JCT. I-90 NORTH TO JCT. T.H. 14 IN ST. CHARLES.
- T.H. 75—From south state line to Canadian border.
- T.H. 78—From I-94 to Ashby.
- T.H. 87—From south Jct. T.H. 71 to north Jct. T.H. 71.
- T.H. 89—From Jct. T.H. 2 to south Jct. T.H. 1.
- I-90 —FROM WEST BORDER TO EAST BORDER.
- I-94 —CONTINUOUS FROM NORTH DAKOTA BORDER TO I-694 EAST OF ST. PAUL (INCLUDES YET TO BE CONSTRUCTED SEGMENT AT LYNDALE AVENUE LOCATION IN MINNEAPOLIS).
- T.H. 95—From Jct. T.H. 169 to Jct. I-35.  
FROM SOUTH JCT. T.H. 212 TO JCT. T.H. 12.
- T.H. 96—From Jct. I-35W to Jct. T.H. 61.
- T.H. 100—FROM I-494 TO T.H. 52.
- T.H. 101—FROM JCT. T.H. 13 TO JCT. T.H. 169 IN SHAKOPEE.  
From south Jct. T.H. 169 to Jct. T.H. 212 and 169.  
FROM JCT. ~~I-94 (Rogers)~~ T.H. 152 TO JCT. T.H. 169 (ELK RIVER).
- T.H. 109—From Jct. T.H. 22 to Jct. I-90.
- T.H. 110—FROM JCT. T.H. 3 TO T.H. 56 WEST.
- T.H. 127—From Jct. I-94 to Jct. T.H. 27.
- T.H. 135—From Jct. T.H. ~~52~~ 53 to Aurora.
- T.H. 152—FROM JCT. ~~I-94 (BROOKLYN PARK) TO JCT. I-94 IN ROGERS~~ T.H. 52 IN OSSEO TO JCT. T.H. 101 (DAYTON).  
From Jct. I-94 to ~~Jct. T.H. 52 (St. Cloud)~~ Rogers.
- T.H. 169—From south state line to Jct. T.H. 21 (Jordan).  
FROM JCT. T.H. 21 (JORDAN) TO JCT. T.H. 101 (SHAKOPEE).

## PROPOSED RULES

- From south Jct. T.H. 101 to Jct. T.H. I-494.  
FROM JCT. I-494 TO T.H. 100.  
From south Jct. T.H. 52 to Jct. T.H. 23.  
From south Jct. T.H. 27 to west Jct. T.H. 210.  
From Jct. T.H. 200 to south Jct. T.H. 53.
- T.H. 200—From west state line to Jct. T.H. 9.  
From north Jct. T.H. 371 to south Jct. T.H. 371.
- T.H. 201—From Jct. T.H. 10 to Jct. T.H. 169 (Elk River).
- T.H. 210—FROM JCT. I-94E EAST TO ST. ANDREWS STREET SOUTH IN FERGUS FALLS.  
In Fergus Falls from St. Andrews south to Sheridan Avenue.  
From west Jct. T.H. 10 to I-35.
- T.H. 212—From west state line to ~~Dawson (east of T.H. 75)~~ Granite Falls.  
~~From Dawson to Jct. T.H. 29.~~  
~~From south Chippewa County line (Montevideo) to east Jct. T.H. 59.~~  
From west Jct. T.H. 71 to Jct. T.H. ~~45~~ 41.  
~~From east Jct. T.H. 22 to Jct. T.H. 41.~~  
From Carver County Road 10 (Walnut Street—Chaska) to Jct. T.H. 41.  
From Jct. T.H. 101 to Jct. I-494.  
(EAST 7TH STREET) FROM T.H. 52 (ROBERT STREET) EAST TO EAST MINNEHAHA AVENUE.  
FROM JCT. T.H. 36 (NEAR STILLWATER) TO JCT. T.H. 95.
- T.H. 218—From south state line to 1¼ miles south of Jct. I-90.  
FROM 1¼ MILES SOUTH OF I-90 TO EAST JCT. I-90.  
FROM WEST JCT. I-90 TO 2 MILES NORTH.  
From 2.0 miles north of Jct. I-90 to Jct. T.H. 14.
- T.H. 226—From Jct. T.H. 34 into Dorset.
- T.H. 231—From west state line to I-94 (Moorhead).
- ~~T.H. 257—From Hanska to Jct. T.H. 45.~~
- T.H. 268—From Jct. T.H. 75 into Edgerton.
- T.H. 270—From Hills to Jct. T.H. 75.
- T.H. 280—FROM JCT. I-94 TO JCT. T.H. 36.
- T.H. 282—From Jct. T.H. 169 to Jct. T.H. 13.
- T.H. 322—From Jct. T.H. 371 to Jct. T.H. 18.
- T.H. 324—FROM I-35 TO ITS JCT. WITH T.H. 361 IN PINE CITY.
- T.H. 329—From T.H. 59 for ¾ mile east into University of Morris experimental station.
- T.H. 361—From I-35 to Rush City.
- T.H. 371—From Jct. T.H. 10 to Jct. T.H. 2.
- I-494 —FROM JCT. I-94 (FISH LAKE) TO PRESENT END OF I-494 AT TWIN CITY INTERNATIONAL AIRPORT.  
FROM T.H. 56 TO JCT. I-94 EAST OF ST. PAUL.
- I-535 —IN DULUTH FROM I-35 TO WISCONSIN.
- I-694 —FROM JCT. I-94 (BROOKLYN CENTER) TO JCT. I-94 EAST OF ST. PAUL.
- City Streets
- Albert Lea —MARGARETHA AVENUE FROM T.H. 65 SOUTH TO 13TH STREET AND 13TH STREET EAST TO ITS TERMINI.
- Anoka —MSAS 9th Avenue from T.H. 242 to Hoffman Engineering.  
MSAS Tyler Street from 7th Avenue to Federal Cartridge.
- Blaine —85TH AVENUE FROM I-35W TO 3601 (TRUCK TERMINAL IN THE CITY OF BLAINE).
- Cyrus —From 2 blocks south of Jct. of T.H. 28 and CSAH 3 on Dahl Street to T.H. 28.
- Detroit Lakes —RANDOLPH ROAD FROM GABOR TERMINAL TO ROOSEVELT AVENUE; THEN ROOSEVELT AVENUE SOUTH TO T.H. 10.
- Fergus Falls —DOUGLAS AVENUE FROM T.H. 59 TO T.H. 210.  
SHERIDAN AVENUE FROM T.H. 59 AND 210 NORTH, TO WASHINGTON AVENUE, WEST ON WASHINGTON AVENUE ONE BLOCK TO SHERMAN STREET, THEN SOUTH ONE BLOCK ON SHERMAN STREET TO JUNIUS AVENUE.  
FROM T.H. 210 SOUTH ON ST. ANDREWS STREET TO WEST LINCOLN AVENUE, WEST ON WEST LINCOLN AVENUE TO SEWAGE PLANT ROAD. THEN SOUTH ON SEWAGE PLANT ROAD TO CENTRAL BY-PRODUCTS PLANT.
- Glenwood —JUNCTION OF T.H. 28 AND MINNESOTA AVENUE TO NORTH LAKESHORE DRIVE. THEN NORTH LAKESHORE DRIVE TO THE WEST CORPORATE LIMITS OF GLENWOOD.

**KEY: RULES SECTION** — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. **Strike outs** indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

## PROPOSED RULES

- Minneapolis — 18TH AVENUE N.E. FROM ARTHUR STREET N.E. TO NEW BRIGHTON BOULEVARD (T.H. 8).
- ARTHUR STREET N.E. FROM 18TH AVENUE N.E. TO NEW BRIGHTON BOULEVARD (T.H. 8).
- STINSON BOULEVARD FROM 18TH AVENUE N.E. TO BROADWAY STREET N.E.
- I-35W NORTH FRONTAGE ROAD FROM STINSON BOULEVARD TO NEW BRIGHTON BOULEVARD (T.H. 8).
- I-35W SOUTH FRONTAGE ROAD FROM STINSON BOULEVARD TO NEW BRIGHTON BOULEVARD (T.H. 8).
- BROADWAY STREET N.E. FROM ARTHUR STREET N.E. TO MINNEAPOLIS EAST CITY LIMITS.
- ARTHUR STREET N.E. FROM SUMMER STREET N.E. TO BROADWAY STREET N.E.
- TAFT STREET N.E. FROM KENNEDY STREET N.E. TO BROADWAY STREET N.E.
- INDUSTRIAL BOULEVARD N.E. FROM BROADWAY STREET N.E. TO I-35W.
- NEW BRIGHTON BOULEVARD FROM I-35W NORTH FRONTAGE ROAD TO SOUTH FRONTAGE ROAD.
- T.H. 55 (HIAWATHA AVENUE) FROM EAST 24TH STREET TO MINNEAPOLIS SOUTH CITY LIMITS.
- CEDAR HIGHWAY FROM EAST 24TH STREET TO MINNEHAHA AVENUE.
- CEDAR AVENUE FROM I-94 EXIT RAMP TO MINNEHAHA AVENUE.
- MINNEHAHA AVENUE FROM I-94 TO EAST 26TH STREET.
- EAST 26TH STREET FROM MINNEHAHA AVENUE TO 26TH AVENUE SOUTH.
- 26TH AVENUE SOUTH FROM EAST 26TH STREET TO EAST 27TH STREET.
- Moorhead — 1ST AVENUE NORTH FROM 8TH STREET NORTH TO T.H. 10.
- Morris — Pacific Avenue From T.H. 59 to Park Avenue.
- New Ulm — Front Street from 8th North Street to Center Street, then Center Street from Front Street to Valley Street, then south Valley Street from Center Street to First South Street.
- Owatonna — ~~HOFFMAN DRIVE FROM I-35 TO NORTH STREET; NORTH STREET FROM HOFFMAN DRIVE EAST TO THE RAILROAD TRACKS.~~
- ~~From T.H. 14 south to railroad tracks. (21st Street N.W.)~~
- Park Drive from County Road 75 (24th Avenue N.W.) to Railroad Tracks.
- Pine City — SEVENTH STREET FROM HILLSIDE AVENUE TO 8TH AVENUE WEST, FROM 4TH AVENUE WEST TO 3RD AVENUE WEST, FROM 2ND AVENUE WEST TO RIVER.
- FOURTH STREET FROM HILLSIDE AVENUE TO 8TH AVENUE EAST, 5TH AVENUE EAST TO 3RD AVENUE EAST.
- THIRD STREET FROM 3RD AVENUE EAST TO RIVER.
- SECOND STREET FROM 3RD AVENUE EAST TO 2ND AVENUE EAST.
- FIRST AVENUE EAST FROM CSAH 61 TO RAILROAD TRACKS.
- SECOND AVENUE WEST FROM 7TH STREET TO CSAH 61.
- SECOND AVENUE EAST FROM CSAH 61 TO SECOND STREET.
- THIRD AVENUE WEST FROM 7TH STREET TO CSAH 61.
- THIRD AVENUE EAST FROM CSAH 61 TO 2ND STREET.
- FOURTH AVENUE WEST FROM 7TH STREET TO CSAH 61.
- EIGHTH AVENUE WEST FROM 7TH STREET TO CSAH 61.
- EIGHTH AVENUE EAST FROM CSAH 61 TO 4TH STREET.
- HILLSIDE AVENUE FROM CSAH 61 TO FOURTH STREET.
- Rose Creek — 3rd Street.
- St. Paul — DALE STREET FROM GRAND AVENUE TO LARPENTEUR AVENUE.
- PLATO BOULEVARD FROM WATER STREET TO FILLMORE AVENUE.

# PROPOSED RULES

CHESTER STREET FROM T.H. 3 TO PLATO BOULEVARD.

NORTH CLEVELAND AVENUE FROM UNIVERSITY AVENUE SOUTH TO WABASH AVENUE, THEN WABASH AVENUE ON NORTH CLEVELAND TO VANDALIA STREET, THEN VANDALIA STREET TO I-94.

EAST SEVENTH STREET FROM EAST MINNEHAHA AVENUE TO ATLANTIC STREET, THEN ATLANTIC STREET NORTH TO RAILROAD TRACKS.

WACOUTA STREET FROM I-94 TO FIFTH STREET, THEN FIFTH STREET FROM WACOUTA STREET TO BROADWAY.

SHEPARD ROAD FROM T.H. 5 TO WARNER ROAD. THEN WARNER ROAD FROM ITS INTERSECTION WITH SHEPARD ROAD TO T.H. 61.

ELWAY STREET FROM SHEPARD ROAD TO MONTREAL AVENUE.

THEN MONTREAL AVENUE FROM ELWAY STREET TO STEWART AVENUE. THEN STEWART AVENUE TO TEXACO TERMINAL.

MINNEHAHA AVENUE WEST FROM DALE STREET TO ARUNDEL STREET.

OTTO AVENUE FROM SHEPARD ROAD TO WEST 7TH STREET.

WHITE BEAR AVENUE FROM I-94 TO EAST MINNEHAHA AVENUE.

EAST MINNEHAHA AVENUE FROM WHITE BEAR AVENUE TO BIRMINGHAM STREET.

CHILDS ROAD FROM WARNER ROAD TO THE SOUTHERLY LIMITS OF CHILDS ROAD.

MOUNDS BOULEVARD FROM I-94 TO EAST SEVENTH STREET.

SNELLING AVENUE (T.H. 51).

Sauk Centre — 4th Street north from T.H. 71 to 331 north 4th Street.

Wells — Broadway Avenue from T.H. 109 south to 7th Street S.E.

Worthington — Oxford Street from T.H. 60 to T.H. 266.  
County Roads

Anoka — CSAH 23 (Naples Street) from CSAH 32 to County Road 105.

County Road 102 (57th Avenue) from T.H. 47 to Main Street (County Road 102).

County Road 102 (Main Street) from 57th Avenue to CSAH 2 (44th Avenue).

CSAH 32 (85th Avenue) from 3601 85th Avenue to 3701 85th Avenue.

CSAH 7 (7th Avenue) from T.H. 10 to Tyler Street (in Anoka).

T.H. 242 (Main Street) from T.H. 10 to 9th Avenue (in Anoka).

Becker — CSAH 10 CONNECTIONS TO T.H. 10.  
CSAH 10 from T.H. 10 west of Frazee to T.H. 10 east of Frazee.

Clay — CSAH 11 FROM T.H. 10 TO TRUCK STOP ½ MILE SOUTH OF I-94.

Douglas — CSAH 41 FROM I-94 TO ITS JCT. WITH CSAH 82.

CSAH 82 FROM CSAH 41 TO ITS JCT. WITH T.H. 29 IN ALEXANDRIA.

Hennepin — CSAH 1 (OLD SHAKOPEE ROAD) — FROM NESBITT AVENUE TO FAI 35W  
CSAH 3 (EXCELSIOR BLVD.) — FROM CSAH 18 TO T.H. 100

CSAH 10 (BASS LAKE ROAD) — FROM FAI 494 TO CSAH 156

CSAH 15 (SHORELINE BLVD.) — FROM CSAH 110 TO CSAH 19

CSAH 18 — FROM FAI 494 TO T.H. 7

CSAH 18 — FROM CSAH 10 TO FAI 94

CSAH 19 — FROM T.H. 7 TO CSAH 15

CSAH 20 (BLAKE ROAD) — FROM CSAH 3 TO T.H. 7

CSAH 34 (NORMANDALE BLVD.) — FROM ~~94TH STREET~~ CSAH 1 (OLD SHAKOPEE ROAD) TO FAI 494

CSAH 109 (85TH AVENUE NORTH) — FROM CSAH 18 TO T.H. 52

CSAH 156 (WINNETKA AVENUE) — FROM CSAH 9 TO CSAH 10

**KEY: RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

## PROPOSED RULES

- McLeod — COUNTY ROAD 90 FROM T.H. 7 TO 1¼ MILES SOUTH.  
CSAH 9 Plato to T.H. 212.  
County Road 81 in Glencoe.
- Pine — CSAH 61 FROM JCT. OF T.H. 361 AND T.H. 324 TO ITS JCT. WITH CSAH 11 IN PINE CITY.  
COUNTY ROAD 55 FROM CSAH 61 TO INDUSTRIAL PARK—PINE CITY.  
CSAH 8 FROM CSAH 61 TO EAST 2ND STREET.
- Ramsey — COUNTY ROAD D (CSAH 19) FROM OLD T.H. 8 TO I/35W IN RAMSEY COUNTY.  
OLD HIGHWAY 8 (CSAH 77) FROM COUNTY ROAD D TO FIRST STREET SOUTHWEST IN RAMSEY COUNTY.  
CLEVELAND AVENUE (CSAH 46) FROM COUNTY ROAD C TO COUNTY ROAD C-2 IN RAMSEY COUNTY.  
COUNTY ROAD C (CSAH 23) FROM WALNUT STREET TO PRIOR AVENUE IN RAMSEY COUNTY.
- Sherburne — CSAH 11 from T.H. 25 to T.H. 10.
- Steele — CSAH 1 (North Street) from CSAH 45 (Hoffman Drive) east to CSAH 1 (North Cedar) in Owatonna.  
CSAH 1 (North Cedar) from CSAH 1 (North Street) north to 11th Street in Owatonna.  
CSAH 8 (Grove Street) from CSAH 19 (Rose Street) north and east to Cherry Street in Owatonna.  
CSAH 9 from I-35 Exit #45 east to CSAH 45.  
CSAH 19 (Rose Street) from CSAH 45 (Hoffman Drive) east to CSAH 8 (Grove Street) in Owatonna.
- CSAH 25 (Bridge Street) from CR 75 (24th Avenue N.W.) east to I-35 In Owatonna.  
CSAH 34 from I-35 Exit #43 east to CSAH 45.  
CSAH 45 from North Steele County Line to T.H. 14 (Hoffman Drive in Owatonna).  
CSAH 45 (Cedar and Oak Streets) from T.H. 218 and 14 Exit North to Pearl Street in Owatonna.  
CSAH 45 (Hoffman Drive) from T.H. 14 in Owatonna south to CSAH 19 (Rose Street).  
CSAH 48 (Main Street) from T.H. 218 and 14 north and west to CSAH 45 (Oak Avenue) in Owatonna.  
CR 75 (24th Avenue N.W.) from T.H. 14 south to CSAH 25 (Bridge Street) in Owatonna.
- Stevens — CSAH 13 Chokio only.  
CSAH 9 Alberta only.
- Traverse — CSAH 4 Browns Valley only.
- Waseca — CSAH 3 from Waldorf to Jct. T.H. 14.  
CSAH 9 from west county line to CSAH 3.  
CSAH 12 from CSAH 1 to T.H. 13.  
CSAH 2 from County Road 53 to T.H. 14.  
CSAH 53 from CSAH 2 to CSAH 5.  
CSAH 5 from County Road 53 to CSAH 30.  
CSAH 30 from CSAH 5 to T.H. 13.
- Washington — CSAH 22 FROM T.H. 61 TO JCT. WITH CSAH 38.  
CSAH 38 FROM JCT. WITH CSAH 22 TO JCT. WITH I-494.
- Winona — County Road 23 from Jct. T.H. 14 to the Jct. T.H. 61 (Minnesota City).

# OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

## Ethical Practices Board

### Advisory Opinion #58 Concerning Employment Practices — Bona Fide Occupational Qualification

Approved by the Ethical Practices Board  
on October 26, 1979

#### Issued to:

Mr. M. E. Smedsrud, President  
Communicating For Agriculture  
P.O. Box 677  
Fergus Falls, MN 56537

#### RE: Employment Practices — Bona Fide Occupational Qualification

#### Summary

#58. Communicating For Agriculture is a unique, non-partisan agricultural related lobbying organization which, on the facts presented the Board, has demonstrated a bona fide occupational qualification for its directors, officers, management and lobbyists to prohibit those persons from seeking partisan political office.

#### Text

You have requested an advisory opinion from the Minnesota Ethical Practices Board based upon the following:

#### Facts

You are president of a small, non-partisan lobbying organization. You and your organization desire to adopt a personnel policy prohibiting certain persons who are directors, officers, managers and lobbyists from seeking and holding partisan political office.

#### Question I

Does candidacy for public office constitute political activity under Minn. Stat. § 10A.20, subd. 11?



**WEAVING AS AN ART FORM** — The Science Museum of Minnesota's new anthropology exhibit hall includes a collection of Northwest Coast Indian basketry. Not only do the baskets show the patience and diligence of Indian women, but they also are symbolic of Native American culture. The baskets can be seen in the museum's new building at 505 Wabasha St. in downtown St. Paul. (Courtesy of The Science Museum of Minnesota)

#### Opinion

Minn. Stat. § 10A.20, subd. 11 provides in part as follows:

No person or association shall engage in economic reprisals or threaten loss of employment or physical coercion against any person or association because of that person's or association's political contributions or *political activity*.

(Emphasis added). Although it is possible to view the above-quoted section as applying only to the "political activity" regulated by Chapter 10A, the literal language of § 10A.20, subd. 11 does not support such a reading. In fact, the placement of the phrase "political contributions" (the area which Chapter 10A primarily regulates) together with the phrase "political activity" indicates that § 10A.20, subd. 11 was intended to apply to activities outside of the purview of Chapter 10A. Similarly, there is no basis in the literal language of § 10A.20, subd. 11 for distinguishing between working with a political campaign, for example, and being a candidate for public office. Thus, it is our opinion that the phrase "political activity" includes being a candidate for public office.<sup>1</sup>

This reading of § 10A.20, subd. 11 is confirmed by the use of phrase "political activity" in two other contexts. The phrase "political activity" is utilized in Minn. Stat. § 43.28. That section regulates the "political activities" which a civil service employee may engage in, prohibiting certain political activities which are engaged in or might be engaged in during

<sup>1</sup>In an early case heard by the then Minnesota Ethics Commission, political activity under section 10A.20, subd. 11 was deemed to include mere membership in the Communist Party. See Case No. H-0002.

## OFFICIAL NOTICES

working hours. The section, however, specifically limits any political subdivision from imposing or enforcing "any additional limitations on the political activities of its employees." Under § 43.28 a civil service employee must take a leave of absence if campaigning will interfere with his or her work but is permitted to run for public office. Thus, when § 43.28 refers to the "political activities" of civil service employees it assumes the phrase includes being a candidate for public office.

Opinions of the Minnesota Supreme Court also indicate that the Court views the term political activity as including running for political office. In *State ex rel. Turen vs. Patterson*, \_\_\_\_ Minn. \_\_\_\_, 48 N.W.2d 547, 576 (1951), the Supreme Court, in interpreting an earlier version of Minn. Stat. § 43.28, noted that:

It [§ 43.28] can have only one purpose, and that is to obviate the evils which necessarily follow when officers or employees in the classified service of the State are permitted to engage in *political activity to the extent of running for office*.

(Emphasis added). Similarly, the Supreme Court in *Johnson vs. State of Minnesota*, Civil Service Department, \_\_\_\_ Minn. \_\_\_\_, 157 N.W.2d 747, 751 (1968), assumed that the term "political activities" included running for political office. See also *Navarro vs. Leu*, 469 F. Supp. 832 (1979); *Counsel 11, American Federation of State, County and Municipal Employees, AFL-CIO vs. Michigan Civil Service Commission*, \_\_\_\_ Mich. Ap. \_\_\_\_, 274 N.W.2d 804, 808 (1978).

### Question II

May a non-partisan public interest lobbying organization prohibit its officers, directors and lobbyists from being candidates for partisan political office?

### Opinion

Although the first sentence of § 10A.20, subd. 11 is a blanket prohibition against economic reprisals or threatened loss of employment resulting from a person's political contributions or political activity, a single exception is provided. Section 10A.20, subd. 11 does not apply to "compensation for employment or loss of employment when the political affiliation or viewpoints of the employee is a *bona fide occupational qualification* of the employment." (Emphasis added).

The phrase "bona fide occupational qualification" is a term of art which evidently originated in Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*<sup>2</sup> The phrase

<sup>2</sup>42 U.S.C. § 2000e-2(e) (1) provides in part that:

(e) Notwithstanding any other provision of this subchapter, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, . . . on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a *bona fide occupational qualification* reasonably necessary to the normal operation of that particular business or enterprise, . . .

(Emphasis added).

also appears in the Age Discrimination in Employment Act of 1976, 29 U.S.C. § 621, *et seq.* It is apparently from these sources that the Minnesota legislature borrowed the "bona fide occupational qualification" phrase which is now part of § 10A.20, subd. 11. Thus, in interpreting the meaning of the phrase, it is appropriate to consider the manner in which the federal legislation has been construed.

Courts have been virtually unanimous in concluding that the "bona fide occupational qualification" language of the federal laws "provides only the narrowest of exceptions to the general rule" of the statutes. *Dothard vs. Rawlinson*, 433 U.S. 321, 333 (1977). This view is based largely upon the wording of the statutes themselves and upon their remedial nature. The language of § 10A.20, subd. 11, and its remedial nature, lead us to the conclusion that the bona fide occupational qualification exception should also be narrowly construed here, and that the exception must not be allowed to swallow the rule against economic reprisals or loss of employment. *Cf. Weeks vs. Southern Bell Telephone & Telegraph Co.*, 408 F.2d 228, 235 (5th Cir. 1969); *Houghton vs. McDonnell-Douglas Corp.*, 533 F.2d 561, 564 (8th Cir. 1977).

In addition, the burden of proving that a particular employment practice fits within the narrow ambit of the exception is upon the employer who asserts the existence of a bona fide occupational qualification. See *Weeks vs. Southern Bell Telephone & Telegraph Co.*, *supra*, at 232.

The federal cases also suggest criteria for determining when this burden has been met. The touchstone of our inquiry is "business necessity." *Dothard vs. Rawlinson*, *supra*, at 433 U.S. 331, n. 14; *Griggs vs. Duke Power Company*, 401 U.S. 424, 431 (1971). An employment practice will constitute a bona fide occupational qualification, necessary for the conduct of an employer's business, if any of three questions can be answered in the affirmative. Adapted to the context of § 10A.20, and of an employee who runs for political office, those questions are:

(1) Would the *essence* of the institution and its goals be undermined by retaining an employee who runs for political office?

(2) Is there a factual basis for believing that all or substantially all employees who become candidates would be unable to perform efficiently the duties of the job?

(3) Would any personnel adjustments caused by retaining employees who become candidates substantially impinge on the efficient and effective operation of the facility?

Applying these criteria to the question posed by Communicating For Agriculture, it is our conclusion that, on the facts presented, a bona fide occupational qualification is shown.

Communicating For Agriculture (CA) states that it is a non-partisan public interest lobbying organization. Its primary functions are to promote agricultural education and to lobby for the preservation of family farms, the improvement of rural education and rural health care, and reform of estate tax laws. It is CA's purpose to remain objective and impartial, and to

## OFFICIAL NOTICES

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avoid any appearance of partisan affiliation. In view of the small size of its staff, CA is concerned that an employee who runs for partisan political office may cause the organization to be identified with a particular political party. Accordingly, CA is considering adoption of a policy requiring directors and at least some employees to resign before becoming partisan candidates for state or national office.

We assume that the proposed policy would apply only to directors, officers, management, lobbyists and others who actually represent CA before the public and that it will not apply, for example, to secretarial or clerical employees. We also assume and urge that CA's employees will be informed of the policy and that new employees will be so informed at the time they are hired.

We believe that, on the facts presented, the essence of the organization and its goals would be undermined if CA were required to retain a director, officer, lobbyist or other public representative who runs for partisan office. The credibility and effectiveness of a public interest lobbying organization are absolutely dependent upon both its ability to remain non-partisan and, no less important, its ability to be perceived as non-partisan. Once identified with a political party, such an organization would be immediately suspect in the eyes of much of its intended audience, and its effectiveness would be lost. The risk of such identification is heightened in this case by the small size of CA's staff. Under these circumstances, we believe there is a substantial likelihood that the party affiliation of even a single candidate might be attributed to CA itself, and that this would undermine the essence of the organization and its goals. Accordingly, we conclude that a requirement of non-candidacy is a bona fide occupational qualification in the factual context described by CA, and we need not address the alternative criteria suggested by the federal decisions.

This is not to suggest that CA could not adopt a less severe approach, such as a mandatory leave-of-absence policy, for employees who become candidates. *See, e.g.*, Minn. Stat. § 43.28, subd. 2 (1978), concerning classified state employees. On the facts stated, however, we cannot say that the policy proposed by CA is prohibited by Minn. Stat. § 10A.20, subd. 11 (1978).

Vernon Jensen  
Chairperson

### **Pollution Control Agency Notice of Intent to Solicit Outside Opinion on Revised Design Criteria for Land Application of Wastewater Effluents**

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) is considering revising its 1972 *Design Criteria for Land Application of Wastewater Effluents*. A

draft of the revised criteria has been prepared by the MPCA staff and a copy may be obtained by contacting:

John N. Holck  
Division of Water Quality  
Minnesota Pollution Control Agency  
1935 West County Road B-2  
Roseville, Minnesota 55113

In order to assess the suitability of the draft criteria, the MPCA requests information and comments from all interested persons or groups. Written statements of information and comment may be addressed to Mr. Holck at the above address.

All statements of information and comment must be received by November 15, 1979.

### **Pollution Control Agency Notice of and Order for Hearing Regarding Application by the City of Winsted for A Variance from Rule WPC 14 (c) (6) for Its Existing and Proposed Municipal Wastewater Treatment Facility**

It is hereby ordered and notice is hereby given that a hearing concerning the above-entitled matter will be held on Wednesday, December 12, 1979, at the Winsted City Hall, 181 - 1st Street North, Winsted, Minnesota 55395, beginning at 7:00 p.m. and continuing until all persons have had an opportunity to be heard.

The purpose of this hearing will be to consider testimony and evidence bearing upon the application of the City of Winsted for a variance from rule WPC 14 (c) (6), which establishes an effluent phosphorous concentration of one milligram per liter where the discharge of the effluent is directly to or affects a lake or reservoir, for the operation of its existing and proposed wastewater treatment facility. The City of Winsted currently operates a three-cell aerated waste stabilization pond system which discharges continuously to South Lake. The City's pond system is located in the NW 1/4 of Section 14, Township 117 North, Range 27 West, McLeod County. The City has proposed to upgrade its existing pond system with continued use of South Lake as the receiving water for treated effluent. The City of Winsted seeks the variance from rule WPC 14 (c) (6) for an indefinite period of time.

The Minnesota Pollution Control Agency is authorized to hold the hearing and grant the requested variance pursuant to Minn. Stat. § 116.07, subd. 5 (1978) and rule MPCA 6.

The hearing will be held before Myron Greenberg, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-

## OFFICIAL NOTICES

8109, a Hearing Examiner appointed by the Chief Hearing Examiner of the State of Minnesota. The hearing will be conducted pursuant to the contested case procedures set out in Minn. Stat. §§ 15.0411-15.052 (1978) and 9 MCAR §§ 2.201-2.299 (the Rules of the Office of Hearing Examiners) and to the extent they do not conflict, 6 MCAR §§ 4.3001-4.3013 (the Minnesota Pollution Control Agency's Rules of Procedure).

The above-cited procedural rules are available for inspection at the Office of Hearing Examiners and the Minnesota Pollution Control Agency or may be purchased from the Documents Section of the Department of Administration, 140 Centennial Building, St. Paul, Minnesota 55155, (612) 296-2874. The rules provide generally for the procedural rights of the parties.

All parties have the right to be represented throughout the proceeding by legal counsel, by themselves, or by a person of their choice (if such representation is not otherwise prohibited as the unauthorized practice of law). Any person desiring to intervene as a Party must submit to the Hearing Examiner and serve upon all existing parties a Petition to Intervene, pursuant to 9 MCAR § 2.210, by December 3, 1979. The Petition must show how that person's legal rights, duties, and privileges may be affected by the decision in this case. The Petition must also set forth the grounds and purpose for which intervention is sought and indicate the petitioner's statutory right to intervene if one should exist. A party to a case has the right to present evidence, rebuttal testimony and argument with respect to the issues and to cross-examine witnesses. Further, parties may be entitled, pursuant to 9 MCAR § 2.216, to issuance of subpoenas requiring the attendance of witnesses and the production of documents relevant to any matter involved in the hearing. Interested persons may present oral or written statements at the hearing without becoming parties at the discretion of the Hearing Examiner in accordance with 9 MCAR § 2.210(e), but may not cross-examine witnesses. At the present time the representatives of parties to this proceeding who should be served with such Petition to Intervene are:

Marlene E. Senechal  
Special Assistant Attorney General  
Minnesota Pollution Control Agency  
1935 W. County Road B2  
Roseville, Minnesota 55113  
Attorney for Minnesota  
Pollution Control Agency Staff

Don Guggemos  
Mayor  
City of Winsted  
City Hall  
Winsted, Minnesota  
55359

A Notice of Appearance form, enclosed with this Order, must be completed and returned to the Hearing Examiner by December 3, 1979, by each person admitted as a Party to the hearing. A Notice of Appearance need not be filed by persons who wish to present oral or written statement without becoming parties. Persons attending the hearing should bring all evidence bearing on the case including any records or other documents.

Please be advised that the issues to be considered at the hearing may, without further notice, be modified or amended by the Hearing Examiner during prehearing conferences.

Additionally, prehearing conferences may result in the establishment of foundation for witnesses and exhibits and, furthermore, may lead to a settlement of the issues surrounding the City's application for a variance. Questions concerning the issues raised in the Order or concerning informal disposition or discovery may be directed to Special Assistant Attorney General Marlene E. Senechal, Minnesota Pollution Control Agency, 1935 W. County Road B2, Roseville, Minnesota 55113, (612) 296-7346.

If any person has a good reason for requesting a delay of the hearing, a request must be made in writing to the Hearing Examiner at least five days prior to the hearing. A copy of the request must be served on all parties.

November 5, 1979

Terry Hoffman  
Executive Director

## Department of Public Welfare

### Mental Health Bureau

#### Notice of Intent to Solicit Outside Opinion Regarding the Proposed Rule Governing the Administration of Developmental Achievement Centers and Services for Persons Who Are Or May Be Mentally Retarded Or Cerebral Palsied

Notice is hereby given that the Minnesota Department of Public Welfare, Mental Health Bureau, has begun consideration of a proposed rule governing the administration of Developmental Achievement Centers and services for persons who are mentally retarded and/or cerebral palsied.

In order to determine the reasonableness and completeness of the proposed rule, the Department of Public Welfare hereby requests information and comments from all interested individuals or groups concerning the subject matter of the proposed rule.

All interested or affected persons or groups are requested to participate. Statements of information and comment should be made in writing.

Written statements of information and comment may be addressed to:

## OFFICIAL NOTICES

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Ardo Wrobel, Director  
Mental Retardation Division  
Department of Public Welfare  
Centennial Office Building  
Saint Paul, MN 55155

The proposed rule, if adopted, would supersede DPW Rule 31 (1971 edition).

All statements of information and comment must be received by December 14, 1979. Any written material received by the Department shall become part of the hearing record.

### **Notice of Intent To Solicit Outside Opinion Concerning Proposed Rule Governing Grants for Community Support Services for Chronically Mentally Ill Persons**

Notice is hereby given that the Minnesota Department of Public Welfare is considering adopting a permanent rule, Grants For Community Support Services For Chronically Mentally Ill Persons. (A proposed temporary rule will be published in next week's issue of the *State Register*. A 20 day comment period will be provided on the temporary rule.) This rule will govern grants available to county boards of commissioners under the provisions of Chapter 324, § 12, Laws of Minnesota, 1979, codified as Minn. Stat. § 256E.12, providing state grants for community support services for chronically mentally ill people.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Terry Sarazin, Director  
Mental Illness Program Division  
Department of Public Welfare, Fourth Floor  
Centennial Office Building  
658 Cedar Street  
St. Paul, Minnesota 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-2710.

All statements of information and comment must be received by December 10, 1979. Any written material received by the Department shall become part of the hearing record.

## **Department of Transportation**

### **Notice of Application and Opportunity for Hearing Regarding Petition of Chicago and North Western Transportation Company for Authority to Retire and Remove An Unnumbered Track Located at Faribault, MN**

Notice is hereby given that the Chicago and North Western Transportation Company, with offices at 4200 IDS Center, 80 South 8th Street, Minneapolis, Minnesota 55402 has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. § 219.741 and § 218.041, subd. 3 (10) to retire and remove an unnumbered track located at Faribault, Minnesota.

The petition recites among other matters that: "The subject track is no longer needed for rail transportation service, constitutes a continuing and burdensome maintenance expense, and is an unnecessary safety hazard. The track is not used at the present time, and there is no present prospect that the subject track will be needed in the future. The only shippers, patrons or members of the public who might have any interest in the retention of the tracks or facilities, or who have used the same to any substantial degree within the past several years is Jerome Fairbo Farms/Foods, Inc."

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. An objection must be received on or before December 4, 1979. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

Upon receipt of a written objection, the Commissioner will, with respect to the named petitioner, set the matter down for hearing. If no objections are received, the Commissioner may grant the relief sought by the petitioner.

If this matter is set for hearing, any person who desires to become a Party to this matter must submit a timely Petition to Intervene to the Hearing Examiner pursuant to 9 MCAR § 2.210, showing how a person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties have the right to be represented by legal counsel or any other representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

Richard P. Braun  
Commissioner

**Notice of Application and Opportunity for Hearing Regarding Petition of Chicago and North Western Transportation Company for Authority to Retire and Remove I.C.C. Track Nos. 6, 13 and 14, Including Turnouts, All Located at Red Wing, Minnesota**

Notice is hereby given that the Chicago and North Western Transportation Company, with offices at 4200 IDS Center, 80 South 8th Street, Minneapolis, Minnesota 55402 has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. § 219.741 and § 218.041, subd. 3 (10) to retire and remove I.C.C. Track Nos. 6, 13 and 14, all including turnouts, located at Red Wing, Minnesota.

The petition recites among other matters that: "The subject tracks are no longer needed for rail transportation service, constitute a continuing and burdensome maintenance expense, and are an unnecessary safety hazard. These tracks are not used at the present time, and there is no present prospect that the subject tracks will be needed in the future. The only shippers, patrons or members of the public who might have any interest in the retention of the tracks or facilities, or who have used the same to any substantial degree within the past several years are Stephen A. Lawrence and Red Wing Developers, Inc."

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. An objection must be received on or before December 4, 1979. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

Upon receipt of a written objection, the Commissioner will, with respect to the named petitioner, set the matter down for hearing. If no objections are received, the Commissioner may grant the relief sought by the petitioner.

If this matter is set for hearing, any person who desires to become a Party to this matter must submit a timely Petition to Intervene to the Hearing Examiner pursuant to 9 MCAR § 2.210, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties have the right to be represented by legal counsel or any other representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

Richard P. Braun  
Commissioner

**Water Resources Board Notice of Public Hearing Concerning Petition to Make Boundary Changes in Middle River-Snake River Watershed District**

The Minnesota Water Resources Board announces it will hold a public hearing in the Newfolden Community Center, Newfolden, Minnesota, 56738, beginning at 10:00 a.m., Central Standard Time, on Tuesday, November 27, 1979, on a petition to make changes along the northern boundary of the Middle River-Snake River Watershed District.

The Board's Notice of Hearing is published in the *Crookston Daily Times* on November 8 and 15, 1979; in the *Thief River Falls Times* on November 7 and 14, 1979; in the *Stephen Messenger Banner* on November 8 and 15, 1979; and in the *Record*, Middle River, on November 7 and 14, 1979.

Copies of the Board's Notice of Hearing are available from the Board's office at 555 Wabasha Street, St. Paul, Minnesota 55102 (612-296-2840).

# STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any

consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

## Cable Communications Board

### Notice of Request for Proposals for Technical and Analytical Services for Interconnection of Cable Communications Systems

The Minnesota Cable Communications Board gives notice that a Request for Proposal (RFP) is available to provide technical and analytical services for interconnection of cable communications systems.

The Board is a state agency mandated by the state legislature to prescribe standards for interconnection and may order interconnection after January 1, 1980. The Board is commencing a study to facilitate the interconnection of all cable systems in the Twin Cities Metropolitan area through a uniform regional channel.

The contractor will recommend methods of interconnection and their economic feasibility. The contractor will also assist in the development of procedural and evaluative criteria for regional interconnection and regional channel entities.

Requests for the RFP may be made no later than December 3, 1979.

Requests should be directed in writing to:

W. D. Donaldson, Executive Director  
Minnesota Cable Communications Board  
500 Rice Street, Saint Paul, Minnesota 55103  
(612) 296-2545

## Department of Economic Security

### Office of Statewide CETA Coordination

### Notice of Request for Proposals for Operation of Displaced Homemaker Programs

In accordance with Minnesota Laws of 1976, ch. 480, the Minnesota Department of Economic Security, Office of

Statewide CETA Coordination (OSCC), is requesting proposals from qualified organizations to operate two Displaced Homemaker Programs in Minnesota areas outside the Twin Cities Metropolitan Area. Financing is through an appropriation of the 1979 Minnesota Legislature, Chapter 336 and CETA, Title II, Special Grant Funds. The estimated amount of each contract is \$170,000.00 for an operational period of approximately 18 months.

Request For Proposal application is available upon request. Inquiries and requests should be directed to:

Pam McCrea  
Office of Statewide CETA Coordination  
690 American Center Building  
St. Paul, Minnesota 55101  
612/296-2684

Request For Proposal applications will be accepted to 4:00 p.m., Friday, December 21, 1979.

## Department of Health Community Services Division

### Notice of Request for Proposal for Technical Services Contract

Services for Children with Handicaps is planning a new clinical outreach activity for children with juvenile-onset diabetes mellitus in two pilot community programs during the fall of 1979. The selected communities are Montevideo and St. Cloud.

Integral to the success of this project is the evaluation of the outcome of intervention on participants. A team of professionals qualified in health care assessment will perform this evaluation. The team must have expertise in diabetic management issues and should be able to work efficiently with the professional staff of the Diabetes Education Center (currently working with SCH under an individual contract).

The objectives of the evaluation are:

1. To identify the behavioral problems associated with the management of juvenile diabetes by juvenile diabetics and their families living in regional areas of the State of Minnesota so that;

- a. health care professionals in regional areas of the State of Minnesota and appropriate members of the Minnesota

Department of Health may become aware of the effects of behavioral problems associated with the management of diabetes on the health status of the juvenile diabetic;

b. health care professionals in regional areas of the State of Minnesota and appropriate members of the Minnesota Department of Health participating in the educational and clinical training program to be provided by the Diabetes Education Center, Saint Louis Park Medical Center will acquire skills in the recognition and modification of these problems; and

c. appropriate intervention programs utilizing motivation techniques, in addition to health education and provision of information, may be designed for juvenile diabetics and their families to enhance adherence with diabetic regimen.

2. To identify the non-behavioral factors contributing to problems associated with the management of juvenile diabetes by juvenile diabetics and their families living in regional areas of the State of Minnesota so that:

a. health care professionals in regional areas of the State of Minnesota and appropriate members of the Minnesota Department of Health may become aware of the effects of non-behavioral factors on the health status of the juvenile diabetic;

b. health care professionals in regional areas of the State of Minnesota and appropriate members of the Minnesota Department of Health participating in the educational and clinical training program to be provided by the Diabetes Education Center, Saint Louis Park Medical Center will acquire skills in the recognition and modification of these factors;

c. appropriate intervention programs utilizing motivating techniques, in addition to health education and provision of information, may be designed for juvenile diabetics and their families to enhance adherence with the diabetic regimen.

3. To evaluate the outcomes of the educational and clinical training programs on juvenile diabetes provided by the Diabetes Education Center, Saint Louis Park Medical Center for both health care professionals and juvenile diabetics and their families, with specific focus on direct and objective measurement of outcome variables affecting the health status of the juvenile diabetic population.

Proposals shall be submitted to Richard P. Nelson, M.D., Director, Services for Children with Handicaps, 2829 University Avenue Southeast, Suite 840, Minneapolis, Minnesota 55414, by November 27, 1979.

## **Higher Education Coordinating Board**

### **Notice of Request for Proposals for Development of a Computer Based Model for Projecting the Supply of Nurses**

The Minnesota Higher Education Coordinating Board is seeking the services of a health manpower information systems consultant to develop a computer based model to project the supply of registered nurses (RNs) and licensed practical nurses (LPNs). The model will take population data and project the numbers of students, graduates, licensees, active and full-time equivalents according to the framework specified in the request for proposals.

Those interested in receiving requests for proposals should contact:

Jerry Setter  
Manager of Special Projects  
Minnesota Higher Education Coordinating Board  
400 Capitol Square Building  
550 Cedar St.  
St. Paul, MN 55101  
(612) 296-9660

Proposals will be accepted until 4:00 p.m., November 26, 1979.

Department of Transportation

Administration Division

Notice of Request for Proposals for Maintenance Management Information Analysis

The Minnesota Department of Transportation (Mn/DOT) is seeking qualified individuals or organizations to conduct an analysis of the present Maintenance Management Information methodology and to identify the needs and requirements for Maintenance Management within the Operations Division

of Mn/DOT. This analysis and its resultant report, which will be accomplished under contract, are outlined in detail in the Request for Proposals (RFP) Statement of Work. The formal RFP may be requested and inquiries should be directed to:

Richard Swanson
Director of Accounting and Finance
461 Rice Street
Saint Paul, Minnesota 55155
Telephone (612) 296-3120

It is anticipated that the analysis and resulting report will not exceed a total cost to the state of \$15,000. The final document must be completed prior to February 22, 1980.

The deadline for the submission of completed proposals will be the close of the working day December 3, 1979.

SUPREME COURT

Decisions Filed Friday, November 2, 1979

Compiled by John McCarthy, Clerk

50085/501 State of Minnesota vs. Leon Bird a.k.a. Lee Allen and James Herlofsky. Hennepin County.

"Legal impossibility" is not a defense to a prosecution for either attempt or conspiracy.

Remanded for trial. Sheran, C. J.

49195/371 State of Minnesota vs. Mark Prudhomme, Appellant. Hennepin County.

Law enforcement officers, in executing a warrant to search defendant's residence, did not violate notice requirements of Fourth Amendment when, after knocking but not getting any response, they opened an unlocked outer door and, without announcing their authority or purpose, entered an enclosed but apparently public or semi-public area in order to knock on inner locked doors leading to private areas of resident.

Affirmed. Otis, J.

48472/231 State of Minnesota vs. James Vernon Hofmaster, Jr., Appellant. Rice County.

Where defendant did not object to admission, during second part of a bifurcated trial, of evidence of his postarrest silence and did not seek curative instructions, and where the evidence clearly did not prejudice defendant, we need not decide the issue of whether the admission of the evidence was in violation of Doyle vs. Ohio, 426 U.S. 610 (1976).

Where defendant was guilty, if at all, of an aggravated form of assault, the court did not err in refusing to submit single assault.

Trial court's instructions were adequate.

Affirmed. Kelly, J.

49367/322 State of Minnesota vs. Allen Dale Hanson, a.k.a. A. D. Hanson, Appellant. Becker County.

The prosecutor's discretion to aggregate offenses under Minn. Stat. § 609.52, subd. 3(5) (1978), is constitutionally confined.

The venue provision of Minn. Stat. § 609.52, subd. 3(5), is constitutional.

Jury instructions on the elements of swindle should no longer include an instruction about whether the victim acted with ordinary prudence or not.

Affirmed. Todd, J.

49384/322 State of Minnesota vs. Allen Dale Hanson, Appellant. Otter Tail County.

Defendant was not denied due process by a 15-month delay in filing of the criminal complaint because he failed to demonstrate prosecutorial intent to gain tactical advantage by the delay.

Defendant's answers to interrogatories were properly admitted into evidence over Fifth Amendment objection because defendant failed to claim the privilege in lieu of answering the interrogatories.

Affirmed. Todd, J.

49245/368 In Re the Marriage of: Frederick J. Mertens, petitioner, vs. Edna I. Mertens, Appellant. Crow Wing County.

The existence of a meretricious relationship, standing alone, so insufficient to justify the termination of alimony. Since the order of

# SUPREME COURT

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the trial court does not reflect its specific consideration of appellant's financial status at the time of the hearing, the case is remanded for further proceedings.

Reversed and remanded. Todd, J.

**48700/372 State of Minnesota vs. Michael Richard Shatto, Appellant. St. Louis County.**

Evidence of defendant's guilt of charge of criminal negligence resulting in death was legally sufficient.

Trial court's instructions, not objected to by defendant, were more than adequate and the trial court did not abuse its discretion in denying a defense request to reread other instructions beyond those requested by the jury during its deliberations.

Affirmed. Wahl, J.

**48629/17 Dwight Parks vs. Allis-Chalmers Corporation, formerly Allis-Chalmers Manufacturing Company, Appellant. Beltrami County.**

The evidence presented jury questions as to whether an improper manner of use of a forage harvester was reasonably foreseeable and whether, if it was, the manufacturer exercised reasonable care in design and instruction. Therefore, the jury verdict must stand.

The jury's apportionment of fault is supported by the evidence.

There was no reversible error in the refusal of requested instructions.

Affirmed. Kennedy, J. Dissenting, Otis and Kelly, JJ. Took no part. Peterson and Todd, JJ.

**48635/253½ In the Matter of the Application for the Disbarment of William R. Ojala, an Attorney at Law of the State of Minnesota. Supreme Court.**

An attorney who failed to file timely federal and state income tax returns, failed to cooperate with the Board of Professional Responsibility in its investigation of another attorney, and who published several newspaper articles which were based on documents stolen from the files of another law firm, is suspended from the practice of law indefinitely for not less than three years, with the added provision that a petition for reinstatement may be entertained in one year or at any time thereafter, subject to the following conditions:

1. Full payment of any tax delinquencies and penalties owing for the tax years 1975 and 1976 to both the federal and state tax authorities;

2. Faithful and timely performance of all tax obligations for the interim years between suspension and petition for reinstatement;

3. That he engage in no conduct prohibited by the Code of Professional Responsibility during the period of suspension as an indication of his willingness to abide by the Code's obligations if and when he resumes the practice of law;

4. A sincere and private apology to the client whose affairs were published in the July 19, 1977, Gilbert Herald;

5. The return of any property, and any copies of any documents currently possessed by respondent belonging to the law firm of Trenti, Saxhaug, Berger, Carey and Roche.

Suspended. Per Curiam.

STATE OF MINNESOTA  
OFFICE OF THE STATE REGISTER

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408 St. Peter Street  
St. Paul, Minnesota 55102  
(612) 296-8239

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